



Explanatory Statement

Goods and Services Tax: Recipient Created Tax Invoice Determination (No. 37) 2016 for Research Grants

General outline of determination

1. The determination is made under subsection 29-70(3) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
2. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any determination of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such determination.
3. The determination allows a grantor that is a recipient of a taxable supply of research to issue recipient created tax invoices (RCTIs) if the grantor determines the value of the research grant as set out in the determination.
4. The determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Date of effect

5. The determination commences on the day after registration.

What is the determination about?

6. Generally, under the GST Act tax invoices are issued by the entity that makes the taxable supply.
7. The purpose of the determination is to outline a class of tax invoices (called RCTIs) that the Commissioner has determined may be issued by recipients of taxable supplies. The Commissioner makes the determination by taking into account a number of factors including the type of industry, the taxable supply, the GST turnover of the recipient and certain requirements for issuing RCTIs. The factors reflect a balance between facilitating the practical use of RCTIs by businesses and maintaining the integrity of the GST system.
8. In accordance with the determination, a grantor that is a recipient of a taxable supply of research may issue an RCTI for the supply if the grantor:

- establishes the value of the research grant before the supply is made using a qualitative, quantitative or other evaluative process; and
- satisfies the requirements set out in Clause 7 of the determination.

What is the effect of the determination?

9. The determination allows a grantor, which is a recipient of a taxable supply of research, to issue a RCTI in relation to the supply provided the requirements of the determination are satisfied. As the grantor has the information to establish the value of the taxable supply, issuing RCTIs for such supplies will simplify payment and invoicing processes.
10. The determination is substantially the same as the previous determination that it replaces. Therefore, a grantor who satisfied the previous determination will satisfy the determination and can continue to issue RCTIs under the determination.
11. Compliance cost impact: Minor – there will be no or minimal impact for both implementation and ongoing compliance costs. The determination is minor or machinery in nature.

Background

12. The determination replaces *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 6) 2000*. The previous determination is repealed on commencement of the determination.

Consultation

13. Subsection 17(1) of the *Legislation Act 2003* requires, before the making of a determination, that the rule-maker is satisfied that appropriate and reasonably practicable consultation has been undertaken.
14. Broad consultation has occurred. The draft determination and draft explanatory statement were published on the ATO Legal Database at ato.gov.au on 29 June 2016 seeking feedback and comments for a period of two weeks. The ATO Legal Database sends emails and news feeds to direct subscribers such as tax professionals and other industry stakeholders. Consultation on the draft determination and draft explanatory statement was also announced on “What we are consulting about” at ato.gov.au. No comments were received by the due date.

15. Direct consultation was not considered to be necessary because the determination merely preserves a concession that would otherwise be removed as a consequence of the sunseting of the previous determination.

Legislative references:

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

Acts Interpretation Act 1901

Legislation Act 2003

Statement of compatibility with Human Rights

This statement is prepared in accordance with *Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*.

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This Legislative Instrument 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 of the Legislative Instrument

Generally, tax invoices are issued by a supplier under the basic rules for GST. This Legislative Instrument allows a grantor that is the recipient of a taxable supply of research to issue the tax invoice (called recipient created tax invoice) if the grantor determines the value of the research grant in the manner set out under the Legislative Instrument and all other requirements of the Instrument are satisfied. This will simplify both the invoicing and payment processes for the grantor and the supplier.

Human rights implications

This Instrument does not engage any of the applicable rights or freedoms. It allows for the streamlining of invoicing and payment practices.

Conclusion

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