Australian Government
Australian Taxation Office

Australian Taxation Office Legislative Instrument
Instrument ID: 2016/ITX/0069

Explanatory Statement

Goods and Services Tax: Simplified Accounting Method Determination (No. 38) 2016 for Restaurants, Cafes and Caterers – purchases snapshot method

General outline of determination

1. The determination is made under subsection 123-5(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (the 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 provides restaurants, cafes and caterers (eligible food retailers) with the choice of using a simplified GST accounting method (SAM) to calculate their entitlements to input tax credits for trading stock purchases for a particular tax period.
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. Division 123 of the GST Act allows the Commissioner to determine a SAM for particular groups of retailers. The determination sets out a SAM for eligible restaurants, cafes and caterers.
7. The SAM contained in the determination allows the input tax credits on trading stock to be estimated in a tax period by calculating a percentage for GST-free trading stock purchases worked out over a continuous four-week sample period and applying that percentage to total trading stock purchases in the tax period.
8. Trading stock is generally anything a business produces, manufactures or acquires, to sell or exchange. For eligible food retailers, the method can be used to calculate the input tax credits that relate to the purchase of food and non-food items that are trading stock but not the credits that relate to the purchase of non-trading stock items such as tables, chairs and crockery.
9. Two new calculations of the percentage of GST-free trading stock must be completed (about six months apart) for each financial year. This percentage is used for six months to calculate the amount of GST-free trading stock acquisitions for subsequent tax periods. The percentage is multiplied by total

trading stock acquisitions in each tax period to determine an estimated amount of GST-free trading stock acquisitions in each tax period. The SAM allows the input tax credits to be calculated by subtracting the estimated GST-free trading stock acquisitions from total trading stock acquisitions and multiplying it by 1/11th.

10. Food retailers are only eligible to use the determination if they:-
    - are registered for GST;
    - mainly sell a range of food that is commonly sold by restaurants, cafes, and caterers; and
    - have a GST turnover which does not exceed the small enterprise turnover threshold.
11. If an eligible retailer chooses to use the SAM set out in the determination, the eligible retailer must notify the Commissioner in the approved form.[1] The SAM must then be used for a minimum period of 12 months. To revoke the election, the retailer must notify the Commissioner in the approved form.[2]
12. The Commissioner has published a booklet (Simplified GST Accounting Methods (NAT 3185)) that provides practical assistance on how to use this method, which is referred to as the "purchases snapshot method".
13. When using the SAM in the determination, entities do not need to hold a tax invoice for an acquisition to include it in the calculation of the input tax credits for a tax period. However, appropriate records must be kept to explain the calculations used to reach the final figure under the determination. Further, all records must continue to comply with the general record keeping requirements.
14. If a creditable acquisition was included in the amount of trading stock purchases for a tax period whilst using this SAM, and the input tax credit for that creditable acquisition is also claimed in a later tax period where the entity is not using this SAM, a corresponding increase must be made to the activity statement of the previous relevant tax period when the method in the determination was applicable. This is to prevent an entity from effectively claiming input tax credits for the same acquisition twice.

What is the effect of this determination

15. Eligible food retailers that choose to use the SAM set out in the determination will use the simplified formula to calculate their GST-free acquisitions to determine their entitlement to input tax credits for each tax period. The formula uses trading stock figures obtained over a continuous four-week sample period to determine what percentage of total trading stock acquisitions is represented by GST-free trading stock acquisitions.
16. For an existing business which starts to use this SAM where the start date is not between 1 June to 31 July or 1 December to 31 January, the first sample period can either be:
    - a four-week period in the tax period which you start to use the SAM, or

[1] At the time of making the determination, the approved form is Election to use a simplified GST accounting method - NAT 4370.
[2] At the time of making the determination, the approved form is Notice to revoke an election to use a simplified GST accounting method - NAT 4371.

- a four-week period during either 1 June to 31 July or 1 December to 31 January that has just elapsed.

17. For example, an entity with monthly tax periods which elects to use this SAM from 1 October 2016 can use the GST-free percentage of their trading stock for the sample period in the July 2016 tax period (or any four-week period during 1 June to 31 July 2016). This percentage can be used to calculate the amounts of GST-free stock for tax periods October, November and December 2016. Alternatively, the entity can record the amounts and GST status for stock purchases in October 2016 to work out the GST-free percentage. This percentage can be used for the tax periods November and December 2016.
18. The rationale behind this formula is that the percentage of acquisitions which are creditable acquisitions at one point in time would be expected to be in line with the percentage of creditable acquisitions in subsequent tax periods for the kinds of businesses to which the determination applies.

Example

Jim has been operating a restaurant for some time and he is on quarterly tax periods. His GST turnover is below the small enterprise turnover threshold.[3] From 1 October 2016 he elected to use this SAM to work out his entitlement to input tax credits.

Jim can use a sample period from 1 June to 31 July 2016 or choose a four-week period from 1 October to 31 December 2016. Prior to 1 October 2016 Jim had already identified the GST status and the amounts of all trading stock he acquired because he was not using a SAM. As such he decided to use a sample period in June 2016. He calculated the GST-free percentage of trading stock for the sample period to be 70%.

During the tax period October-December 2016, Jim purchased $65,000 of trading stock. Using the SAM, the amount of GST-free trading stock for the October-December 2016 tax period is $45,500 (70% of $65,000). The amount of input tax credit is 1/11th of the difference between $65,000 and $45,500. Therefore the input tax credit entitlement on trading stock purchases for October-December 2016 tax period is $1773.

The next sample period is a four-week continuous period between 1 December 2016 to 31 January 2017. The GST-free percentage of trading stock from this sample period is used to calculate the amounts of GST-free trading stock for the tax periods January-March and April-June 2017.

For each financial year, Jim is required to do two new calculations of the GST-free percentage about every six months in order to calculate the amounts of GST-free trading stock.

Background

19. The determination replaces *A New Tax System (Goods and Services Tax) Act 1999 Simplified Accounting Method Determination (No. 1) 2006* (the previous determination). The previous determination is repealed on commencement of the determination.

[3] The small enterprise turnover at the time of making the determination is $2 million (subsection 123-7(2) of the GST Act).

20. The determination is substantially the same as the previous determination and allows eligible food retailers to continue to have the choice to use the SAM provided in the previous determination.

Consultation

21. 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.

22. Broad consultation has occurred. The draft determination and draft explanatory statement were published on the ATO Legal Database at ato.gov.au on 3 August 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.

23. Targeted consultation was also undertaken. Draft copies of the determination and explanatory statement were sent to the Restaurant and Catering Industry Association, the peak industry association representing the interests of 35,000 restaurants, cafés and catering businesses across Australia, on 26 July 2016 seeking feedback with comments due on 17 August 2016. Comments received reiterated that the determination was still required and no changes were recommended to the draft determination and explanatory statement.

Compliance Cost Impact

24. 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.

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

This Legislative Instrument provides restaurants, cafes and caterers (eligible food retailers) with a choice of using a simplified GST accounting method to calculate their entitlements to input tax credits for trading stock purchases for a tax period.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms as it is considered to be minor or machinery in nature and does not substantially change the law.

Conclusion

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