



Explanatory Statement

Goods and Services Tax: (Particular Attribution Rules for Supplies and Acquisitions made through Agents) Determination 2017

General outline of determination

1. The determination is made under subsection 29-25(1) 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 instrument 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 instrument.
3. The determination sets out particular attribution rules where you make taxable supplies or creditable acquisitions through an agent and rely upon information from your agent to enable you to attribute the GST payable or input tax credits on those supplies or acquisitions. Further this determination also sets out particular attribution rules in regards to adjustments to these supplies and acquisitions.
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 its registration on the Federal Register of Legislation.

What is the determination about?

6. Sections 29-5 and 29-10 of the GST Act set out the rules for attributing GST and input tax credits on your taxable supplies and creditable acquisitions.
7. This determination provides rules for attribution of GST and input tax credits when you make taxable supplies or creditable acquisitions through an agent that you rely upon for information in order to attribute the GST payable or input tax credits on those supplies or acquisitions.

What is the effect of the determination?

Rules for GST payable on taxable supplies you make through an agent occurring before you know they have occurred

8. Where you make a taxable supply through an agent and you are reliant upon the agent for information to enable you to attribute the GST payable on the supply, you attribute the GST payable to the earlier of; the tax period in which you become aware that any of the consideration has been received, or the tax period in which you become aware that an invoice has been issued relating to the supply.
9. However, where you account on a cash basis, if you become aware that all, part or none of the consideration has been received in a tax period; the GST is attributable to that tax period, but only to the extent of the consideration received.

Rules for input tax credits that arise on creditable acquisitions you make through an agent before you know they have occurred

10. Where you make a creditable acquisition through an agent and you are reliant upon that agent for information to enable you to attribute the input tax credit, you attribute the input tax credit to the earlier of; the tax period in which you became aware that any consideration has been provided or, the tax period that an invoice has been issued relating to the acquisition.
11. However, where you account on a cash basis and in a tax period you become aware that all, part or none of the consideration has been provided, the input tax credit is attributable to that tax period, but only to the extent of the consideration received.

Particular attribution rules for Adjustments

12. Where you have an adjustment that relates to a taxable supply or creditable acquisition made through an agent and you are reliant upon the agent to enable you to attribute the adjustment, the adjustment is attributable to the tax period in which you become aware of the adjustment.
13. However, if you account on a cash basis and the adjustment arises from an adjustment event as a result of which you are liable to provide consideration, then the adjustment is attributable to the tax period or periods in which you become aware that the consideration has been provided, but only to the extent of the consideration provided in that period.
14. 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

15. The determination replaces *A New Tax System (Goods and Services Tax) (Particular Attribution Rules for Supplies and Acquisitions made through Agents) Determination (No. 1) 2000 - F2006B11596* (the previous determination), registered on 17 November 2006. The previous determination is repealed on commencement of the determination.
16. The determination is substantially the same as the previous determination that it replaces. An entity that satisfied the requirements of the previous determination will satisfy the requirements of this determination.

Consultation:

17. 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.
18. Broad consultation has been undertaken. The draft determination and draft explanatory statement were published on the ATO Legal database at ato.gov.au seeking feedback and comments for a period of two weeks. Notice of the draft determination was also published to ato.gov.au and subscription alerts issued. Tax professionals and tax associations regularly review both the Legal database and ato.gov.au and further promulgate

advice of new drafts issued in their internal news bulletins. The major legal publishers also publish news of the drafts in their key tax alerting services - such as the Weekly Tax Bulletin (published by Thomson Reuters Australia) and Tax Tracker and Tax Week (published by CCH Australia). Additionally, draft determinations and draft explanatory statements have been published on the ATO Consultation Hub. Links to these drafts were published organisations and newsletters such as the Taxation News (Chartered Accountants Australia and New Zealand) weekly bulletin. No comments have been received to date.

Legislative References:

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

Acts Interpretation Act 1901

Legislation Act 2003

Human Rights (Parliamentary Scrutiny) Act 2011

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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The 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 determination provides certainty and alleviates the compliance burden relating to attribution of GST and input tax credits when you make supplies or acquisitions through an agent on whom you rely for information about those supplies or acquisitions.

Human rights implications

The Instrument does not engage any of the applicable rights or freedoms. It allows for certainty and alleviates the compliance burden in attributing the GST and input tax credits when you make supplies or acquisitions through an agent.

Conclusion

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