



Explanatory Statement

Goods and Services Tax: (Particular Attribution Rules for Cooling off Periods) 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 specifies particular attribution rules for GST payable and input tax credits on taxable supplies or creditable acquisitions where a statutory cooling off period under an Australian law applies.
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. The determination provides rules for attribution of GST and input tax credits where you make a taxable supply or creditable acquisition that is subject to a statutory cooling off period under an Australian law.

What is the effect of the determination?

8. Where you make a taxable supply that is subject to a statutory cooling off period under an Australian law and the GST payable on that supply is attributable under section 29-5 of the GST Act to a tax period that ends before the statutory cooling off period expires, then the GST payable is attributable to the tax period in which the cooling off period expires.
9. Where you make a creditable acquisition that is subject to a statutory cooling off period under an Australian law and the input tax credit on that acquisition is attributable under section 29-10 of the GST Act to a tax period that ends before the statutory cooling off period expires, then the input tax credit is attributable to the tax period in which the cooling off period expires.
10. 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

11. The determination replaces *A New Tax System (Goods and Services Tax) (Particular Attribution Rules for Cooling off Periods) Determination (No. 1) 2000 - F2006B11605*, registered on 20 November 2006 (the previous determination). The previous determination is repealed on commencement of the determination.
12. 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 termination.

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 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 Legislative Instrument 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

The attribution of the GST and Input Tax Credits (ITC) depends on rules which may cause an unintended compliance burden in a circumstance where your supply, or acquisition, is subject to a statutory cooling off period. This determination clarifies when GST or ITC is attributable to a tax period.

Human rights implications

The determination does not engage any of the applicable rights or freedoms. It applies to a deferral of GST or ITC by attributing it to a tax period in which the cooling off period expires.

Conclusion

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