

Explanatory Statement

Diplomatic Privileges and Immunities (Indirect Tax Concession Scheme) Amendment (Estonia and Pakistan) Determination 2017

Issued by the Authority of the Minister for Foreign Affairs

Subject: *Diplomatic Privileges and Immunities Act 1967*

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Section 10B of the *Diplomatic Privileges and Immunities Act 1967* provides that the Minister may make Determinations for the Commissioner of Taxation to pay the head of the mission (or a person in a class of persons determined by the Minister) an amount equal to the amount of indirect tax payable (if any) in respect of the supply of that acquisition.

The purpose of this Amendment Determination is to amend the *Diplomatic Privileges and Immunities (Indirect Tax Concession Scheme) Determination 2000* to create a new Indirect Tax Concession Scheme (ITCS) package for Estonia and amend the existing package for Pakistan to provide tax concessions to their diplomatic missions and accredited staff. The effect of the Amendment Determination is to update the schedule of countries by amending an existing item and adding a new item to list the ITCS package available to particular countries.

Diplomatic missions and accredited staff are exempt from paying direct taxes under the Vienna Convention on Diplomatic Relations (Articles 23, 34, 36 and 37). In line with international practice, tax concessions on indirect taxes are also extended to diplomatic missions and accredited staff. In Australia, indirect tax concessions are provided for under the ITCS. Individual packages are negotiated with each country, and the level of concessions provided are broadly based on reciprocity.

Commencement dates for individual packages form part of the negotiations for tax concessions. In some cases, the commencement date reflects the date when the agreement was reached. In other cases, if there is a clear benefit to Australia, the commencement date allows access to concessions for purchases of goods and services already made, including by our overseas missions. As these packages are usually agreed before they come into force under Australian legislation, they need to be made retrospective. This retrospectivity is not to the detriment of any person or organisation; rather it extends concessions to missions and accredited staff from either the date the mission opened or a date agreed during negotiations. Reciprocity of the date of effect means that Australian missions and accredited staff will have access to the same benefits in the relevant overseas country.

The amendments are beneficial to Australia. In determining the scope of the economic benefit to Australia, in 1999 the then Assistant Treasurer Rod Kemp advised that the estimated net benefit to Australia in pursuing reciprocal agreements under the GST would be several million dollars, and that the most practical means of assessing the financial benefit to Australia would be to take

a global approach, rather than an approach based on individual agreements. The Treasury has advised the amendments made under this amendment determination will have a negligible impact on revenue. In addition, the provision of tax concessions encourages diplomatic missions and accredited staff to purchase goods in Australia rather than directly importing them, which further assists the Australian economy.

The ITCS has no impact on business operations. It does not provide for a direct exemption from indirect taxes at the point of purchase and therefore does not pose any additional burden on Australian retailers.

The Amendment Determination does not alter the way the ITCS works, but extends or retracts tax concessions to specific diplomatic missions. The Amendment Determination was therefore judged to be of a minor nature where consultation is unnecessary under the *Legislation Act 2003*.

This Amendment Determination 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*.

The Office of Best Practice Regulation has advised that the Amendment Determination is not likely have regulatory impacts on business, individuals or community organisations.