



Explanatory Statement

Goods and Services Tax: Foreign Currency Conversion Determination (No. 1) 2017

General Outline of Determination

1. This determination is made under subsection 9-85(2) of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act).
2. This determination sets out the method to convert amounts of consideration that are expressed in foreign currency into Australian currency for the purposes of working out the value of a taxable supply.
3. This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. 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.

Date of effect

5. This determination is taken to have commenced on 1 July 2017.

What is this determination about

6. Subsection 9-85(1) of the GST Act requires that the value of a taxable supply be expressed in Australian currency. An entity must report the GST payable for taxable supplies in Australian currency on its activity statements.
7. In this determination, the Commissioner sets out the method an entity must use to convert foreign currency to Australian currency when working out the value of a taxable supply.

What is the effect of this instrument

8. In working out the value of a taxable supply, an entity must convert any amount of consideration expressed in foreign currency using the following formula:
$$(\text{Amount expressed in a foreign currency}) \times (1 / \text{your particular exchange rate on the conversion day})$$

where,

your particular exchange rate is the rate from a foreign exchange organisation, the RBA rate, or the agreed rate, whichever the entity has chosen; and

conversion day is the date that the foreign currency is converted into Australian currency as set out in Paragraph 7 of the determination.

9. Compliance cost impact: minor. There will be no or minimal impacts for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

Background

10. This determination replaces the *Goods and Services Tax: Act Foreign Currency Conversion Determination (No. 30) 2016* (the previous determination) - F2016L00180, registered on 29 February 2016. The previous determination is repealed on registration of this determination on the Federal Register of Legislative Instruments.
11. This determination explains the method that entities must use to convert an amount of consideration expressed in foreign currency into Australian currency. It is a requirement under subsection 9-85(1) of the GST Act that the value of a taxable supply be expressed in Australian currency for the purposes of the GST Act.
12. The method set out in the determination to convert an amount of consideration from foreign currency into Australian currency, requires an entity to choose an exchange rate and a conversion day from a defined list of options.
13. The exchange rate can be a rate from a foreign exchange organisation, the RBA rate, or the agreed rate. The exchange rate chosen by the entity should be used consistently for GST purposes. The exchange rate may be changed if an entity has sound commercial reasons for doing so. An entity that alternates between rates with a view to reducing its GST liability has used its rate inconsistently and has not followed the manner stated in the determination.
14. Paragraph 7 of the determination defines conversion day to be the date that the entity converts foreign currency into Australian currency. The conversion day differs for entities that account for GST on a cash basis and those that account for GST on a basis other than cash.
15. Subparagraphs 7(c) and 7(d) provide additional conversion day options for non-residents that are making inbound intangible consumer supplies and non-residents that are limited registration entities.
16. Subparagraph 7(c) applies to non-resident entities that are not limited registration entities, but who make inbound intangible consumer supplies. The conversion day for the inbound intangible consumer supplies made by these entities can be either a day under subparagraph (7)(a) or 7(b) or, in respect of the inbound intangible consumer supplies only, can be the final day of the relevant tax period in which GST is payable (clause 7(c)(ii)). If an entity applies clause 7(c)(ii) as the conversion day for its inbound intangible consumer supplies, the conversion day for the entity's other supplies can only be the day specified in subparagraphs 7(a) or 7(b).
17. Subparagraph 7(d) applies to non-resident entities that are limited registration entities. The conversion day for all of their supplies can be a day specified in

subparagraphs 7(a) or 7(b) or the final day of the relevant tax period in which GST is payable (clause 7(d)(ii)).

Consultation

18. 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.
19. Targeted consultation was conducted through the OECD meeting held in Paris, France in September 2016. Attendees had four weeks to provide comments.
20. Further targeted consultation was conducted in the September to November 2016 period.
21. Broad consultation also occurred. The draft determination and draft explanatory statement were published on the Consultation Hub at ato.gov.au on 6 December 2016 seeking feedback and comments initially for a period of four weeks. Further extensions were made and the consultation concluded on 31 March 2017.
22. Overall, the response from the consultation process was limited but was supportive of the amendments.

Legislative references:

Acts Interpretation Act 1901

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

Human Rights (Parliamentary Scrutiny) Act 2011

Legislation Act 2003

Reserve Bank Act 1959

Statement of Compatibility with Human Rights

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 prescribes the manner in which consideration expressed in a foreign currency must be converted into Australian currency when working out the value of a taxable supply for the purposes of the *A New Tax System (Goods and Services Tax) Act 1999*.

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.