



Explanatory Statement

Taxation Administration (Remedial Power – Certificate for GST-free supplies of Cars for Disabled People) Repeal Amendment Determination 2021

General Outline of Instrument

1. This instrument is made under section 370-5 of Schedule 1 to the *Taxation Administration Act 1953* (TAA). All references to legislative provisions in this Explanatory Statement are references to the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) unless otherwise stated.
2. This instrument inserts a repeal provision into the *Taxation Administration (Remedial Power – Certificate for GST-free supplies of Cars for Disabled People) Determination 2020* (principal instrument) so that the principal instrument is repealed at the start of 1 April 2024.
3. This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. Section 370-15 of the TAA allows the Commissioner of Taxation (Commissioner) to prepare another legislative instrument to repeal this instrument. Subsection 370-15(3) states that subsection 33(3) of the *Acts Interpretation Act 1901* applies only to the extent that it allows the Commissioner to amend or vary this instrument.

Date of effect

5. Under section 370-20 of the TAA, this instrument commences on the first day the instrument is no longer liable to be disallowed, or to be taken to have been disallowed under section 42 of the *Legislation Act 2003*.

What is the effect of this instrument

6. The effect of this instrument is to amend the principal instrument so that it is repealed at the start of 1 April 2024. This means the modification made by that instrument to paragraph 38-510(1)(a) will cease to operate at the start of that day.

Background

7. This instrument amends the principal instrument.
8. The principal instrument modifies the operation of paragraph 38-510(1)(a) to ensure continued access to GST-free supplies of cars and car parts for disabled people who:
 - have lost the use of one or more limbs to such an extent that they are unable to use public transport, and
 - intend to use the car for personal transportation to or from gainful employment for at least two years or 40,000 kilometres from the date of purchase or lease.
9. The modification enables paragraph 38-510(1)(a) to be satisfied where the disabled individual holds a certificate of medical eligibility issued by a medical practitioner. This is achieved by enabling a registered medical practitioner to issue a certificate, titled 'certificate of medical eligibility', certifying that the individual has lost the use of one or more limbs to such an extent that

they are unable to use public transport. 'Medical practitioner' is defined in section 195-1 to mean a person who is a medical practitioner for the purposes of the *Health Insurance Act 1973*.

Explanation

10. This legislative instrument will amend the principal instrument so that it is repealed at the start of 1 April 2024, which is the usual sunset day and approximately 3 years after the commencement date of that instrument. Therefore, the modification made by the principal instrument will cease to operate at the start of that day. This ensures that the principal instrument and modification remains in force for only as long as it is needed.

Consultation

11. The Commissioner routinely publishes draft legislative instruments seeking public feedback for a minimum period of 4 weeks. For this instrument, targeted consultation was undertaken with the CRP Advisory Panel, a body comprised of private sector specialists, Treasury and ATO representatives, and the Board of Taxation. Wider consultation was not considered necessary because the amendment made to the principal instrument is machinery or administrative in nature, and does not affect the scope or application of the modification made by the principal instrument.

12. In these circumstances, the Commissioner has undertaken reasonable and appropriate consultation over a shorter period than would otherwise have been used.

Legislative references

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

Acts Interpretation Act 1901

Health Insurance Act 1973

Human Rights (Parliamentary Scrutiny) Act 2011

Legislation Act 2003

Taxation Administration Act 1953

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 is made under section 370-5 of Schedule 1 to the TAA, known as the Commissioner's Remedial Power. It amends the *Taxation Administration (Remedial Power – Certificate for GST-free supplies of Cars for Disabled People) Determination 2020* (principal instrument) by adding a repeal provision so that the principal instrument is repealed at the start of 1 April 2024.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights and freedoms because it merely inserts a repeal provision into the principal instrument without changing the scope or application of the modification made by that instrument.

Conclusion

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