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## Explanatory Statement

# A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2022

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### General outline of Determination

1. This determination is made under paragraph 29-75(1)(c) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
2. The determination sets out the information that must be included in an adjustment note, including a recipient created adjustment note.
3. It replaces *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012* (F2013C00796).
4. The determination is a legislative instrument for the purposes of the *Legislation Act 2003*.
5. 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

6. This determination commences on the day after it is registered on the Federal Register of Legislation.

### Effect of this determination

7. This determination sets out the additional information requirements for a document to be an adjustment note or recipient created adjustment note under subsection 29-75(1) of the GST Act. Unless an exception applies, a supplier or a recipient must hold an adjustment note to attribute a decreasing adjustment from an adjustment event when completing their GST return for a tax period.
8. Even where a document has insufficient information, the Commissioner has the discretion to treat a document as an adjustment note under subsection 29-75(1) of the GST Act.

## Compliance cost assessment

9. There will be no additional regulatory impacts as the determination is minor and machinery in nature OBPR22-01625.

## Background

10. This determination specifies additional information that needs to be included in an adjustment note and a recipient created adjustment note under subsection 29-75(1) of the GST Act.
11. Adjustment notes and tax invoices are generally issued by a supplier making a taxable supply. However, in some circumstances a recipient may be able to issue a tax invoice and an adjustment note. For example, where the recipient determines the value of the goods or services. In such circumstances, the tax invoice or any corresponding adjustment notes may be created by the recipient in accordance with subsections 29-70(3) and 29-75(2) of the GST Act.
12. Adjustment notes and recipient created adjustment notes are needed where there is an adjustment event. An adjustment event is an event which cancels the supply or acquisition, alters the price paid or received by the parties or causes the supply or acquisition to become, or stop being, a taxable supply or creditable acquisition. Where an adjustment event results in the previously reported GST or input tax credit no longer correctly reflecting the GST or input tax credit for the supply or acquisition, an adjustment will arise. The adjustment will be either an increasing adjustment or decreasing adjustment.
13. An increasing adjustment increases the net amount for the tax period, while a decreasing adjustment decreases the net amount for the tax period. Except in certain circumstances, a decreasing adjustment of more than \$75 cannot be attributed in a GST return to a tax period until an adjustment note is held.
14. The supplier or recipient is required to give the other party a copy of the adjustment note within 28 days of the earlier of:
  - a) a request by the other party; or
  - b) becoming aware of the adjustment before an adjustment note is required.

However, under section 29-80 of the GST Act, the requirements to hold or issue an adjustment note does not apply where the amount of the adjustment is \$75 or less, or such higher amount as the *A New Tax System (Goods and Services Tax) Regulations 2019* (GST regulations) specify.

## Consultation

15. Subsection 17(1) of the *Legislation Act 2003* requires that the Commissioner to be satisfied that appropriate and reasonably practicable consultation has been undertaken before making a determination.
16. Public consultation was undertaken on this instrument for a period of 2 weeks.
17. The draft instrument and draft explanatory statement were published on the ATO Legal database, which is publicly available. Publication was advertised via the 'What's new' page on that website, and via the 'Open Consultation' page on ato.gov.au. Major tax and superannuation publishers and

associations monitor these pages and include the details in the daily and weekly alerts and newsletters that they provide to their subscribers and members.

18. No comments were received as part of the consultation process.

**Legislative references:**

*Acts Interpretation Act 1901*

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

*A New Tax System (Goods and Services Tax) Regulations 1999*

*Human Rights (Parliamentary Scrutiny) Act 2011*

*Legislation Act 2003*

## **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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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 disallowable legislative instrument has been developed to ensure taxpayers are able to substantiate and properly account for adjustments associated with taxable supplies. It describes what additional information should be included in an adjustment note and a recipient created adjustment note, in addition to the requirements expressly mentioned in subsection 29-75(1) of the GST Act.

#### **Human rights implications**

The legislative instrument does not engage any of the applicable rights or freedoms, because it merely sets out the minimum information requirements to be included in an adjustment note and a recipient created adjustment note issued for a GST supply.

#### **Conclusion**

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