

AN 2013/1 - Explanatory statement -



***Goods and Services Tax: Adjustment Note Information
Requirements Amendment Determination 2013***

Explanatory Statement

General Outline of Instrument

1. This instrument is made under section 29-75 of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act).
2. The purpose of this instrument is to update the existing legislative instrument *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012* (F2012L00769).
3. The instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Date of effect

4. The instrument is taken to have commenced on 1 July 2010.
5. The instrument will apply retrospectively.
6. The instrument is amending the existing legislative instrument for clarification purposes.
7. If the amendments to the existing legislative instrument were not applied retrospectively, then it is possible that some taxpayers may be adversely impacted in that they will not be able to apply the provisions to their circumstances. As such, the instrument applies retrospectively to ensure that taxpayers will not be disadvantaged by the amendments to the existing legislative instrument. The effect of the legislative instrument is to the advantage of affected parties. Under section 12(2) of the *Legislative Instruments Act 2003* this instrument does not adversely affect the rights or liabilities of any person other than the Commonwealth.

What this instrument is about?

8. The purpose of this instrument is to update the existing legislative instrument *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012*.
9. This instrument amends the existing legislative instrument to ensure that the effect of paragraphs 5(1)(g), 5(2)(g) and subclause 5(4) is applied consistently.

What is the effect of this instrument?

10. The effect of this instrument is that the operation of the existing legislative instrument will be clarified.

11. Compliance cost impact: No change/low - minor or machinery in nature. A compliance cost assessment indicates a minor impact to both implementation and on-ongoing compliance costs.

Background

12. Under subsection 29-75 of the GST Act, the Commissioner may determine in writing additional information requirements that must be satisfied for a document to be an adjustment note under subsection 29-75(1).

13. Amendments have been made to paragraphs 5(1)(g) and 5(2)(g) to confirm that an adjustment note only needs to specify the change in the price of a supply where there has in fact been a change. It also clarifies that for partly taxable supplies the adjustment note can either identify the change to the price of the whole supply, or the change to that part of the price referable to the taxable component.

14. The amendments to subclause 5(4) of the existing instrument clarify that a document issued by an entity to another entity is an adjustment note if the requirements in subclause 5(4) are met. Existing subclause 5(4) only applies to the entity in receipt of the document, and not the entity issuing the document. Pursuant to this amendment, if the requirements are met the document is an adjustment note for the purposes of both the supplier and the recipient.

15. The amendments to the existing instrument are required to ensure it applies consistently to entities.

Consultation

16. Section 18 of the *Legislative Instruments Act 2003* specifically provides for circumstances where consultation may not be necessary or appropriate. One of those circumstances is where the instrument is considered minor or machinery in nature, and does not substantially change the law. Consultation in relation to the existing legislative instrument was held prior to its registration. However, no other consultation was undertaken in relation to the development of this instrument as it is considered minor or machinery in nature, and does not substantially change the law.

James O'Halloran
Deputy Commissioner of Taxation

Dated: 20 August 2013

Legislative references:

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

Goods and Services Tax: Adjustment Note Information Requirements Amendment Determination 2013

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 instrument updates the existing legislative instrument *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012* to clarify its operation. The amendments to the existing instrument clarify that a document issued by an entity to another entity is an adjustment note if the requirements in clause 5(4) are met. Further amendments have been made to confirm that for partly taxable supplies, the difference in the price of a supply needs to be clearly ascertainable from the document.

The instrument applies retrospectively to ensure that taxpayers will not be disadvantaged by the amendments to the existing legislative instrument. The effect of the instrument is to the advantage of affected parties.

Human rights implications

On an assessment of the compatibility of this Legislative Instrument with the seven core international human rights treaties to which Australia is a party, it has been determined that this instrument does not engage any of the applicable rights or freedoms because the instrument is minor or machinery in nature.

Conclusion

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

James O'Halloran

Deputy Commissioner of Taxation