

AN 2015/35 - Explanatory statement -



Goods and Services Tax: Extension of Time to Issue An Adjustment Note Determination (No. 35) 2015

Explanatory Statement

General Outline of Instrument

1. This determination is made under subsection 29-75(3) of the *A New Tax System (Goods and Services Tax) Act 1999* and subsection 4(1) of the *Acts Interpretation Act 1901*.
2. The determination allows an extension of time for a Public Utility Provider who is a gas retailer to issue an adjustment note.
3. The determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Date of effect

4. The determination commences on the day after registration.
5. The determination does not apply retrospectively.

What is this instrument about

6. The purpose of this determination is to outline the extension of time that the Commissioner has determined for a Public Utility Provider who is a gas retailer to issue an adjustment note.
7. A Public Utility Provider who is a gas retailer would normally issue tax invoices to their customers for the provision of services over a period of about 3 months. The issuing of the tax invoice would generally follow the reading of the recipient's meter.
8. Under paragraph 29-75(2)(b) of the *A New Tax System (Goods and Services Tax) Act 1999*, if a gas retailer has issued a tax invoice and becomes aware of an adjustment to the taxable supply, and it's before an adjustment note is requested by the recipient, the gas retailer must give the recipient an adjustment note within 28 days.
9. However, under subsection 29-75(3) of the *A New Tax System (Goods and Services Tax) Act 1999*, the Commissioner can specify a different number of days in relation to certain circumstances.
10. Therefore, under this determination the gas retailer has the earlier of 98 days from becoming aware of an adjustment or when they issue the next tax invoice, to issue an adjustment note to the recipient.
11. This extension of time only applies if the customer did not request an adjustment note. If the customer did request an adjustment note then the normal timeframe of 28 days from receipt of the request would apply.

What is the effect of this instrument

12. The effect of this determination is to provide extra time for a Public Utility Provider who is a gas retailer to issue an adjustment note where there has not been a request from the customer for an adjustment note.
13. 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

14. This determination replaces the *A New Tax System (Goods and Services Tax) Act 1999 Extension of Time to issue An Adjustment Determination (No. 1) 2000*. The replaced instrument is repealed on the commencement of this determination.

Consultation:

15. 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.
16. There is no substantive change from the previous instrument therefore the instrument is considered minor or machinery in nature.
17. As such, no further consultation has been undertaken in the development of this instrument.

James O'Halloran
Deputy Commissioner of Taxation
15 September 2015

Legislative references:

A New Tax System (Goods and Services Tax) Act 1999
Acts Interpretation Act 1901
Legislative Instruments Act 2003
Human Rights (Parliamentary Scrutiny) Act 2011

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 Legislative Instrument allows a Public Utility Provider who is a gas retailer to extend the time in which they must issue an adjustment note to the earlier of when the next invoice would normally issue or 98 days from when they became aware of the adjustment. Generally a supplier would be required to issue an adjustment note within 28 days of becoming aware of the adjustment, however, the Commissioner can specify a different number of days in certain circumstances.

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.