

# ***FOREX 2018/1 - Explanatory statement -***



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## Explanatory Statement

# Goods and Services Tax: Foreign Currency Conversion Determination 2018

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### 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. 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.
4. This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

### Date of effect

5. This determination commences on 1 July 2018.

### 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 on 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 determination

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 from the determination:

$$\text{amount expressed in a foreign currency} \times \frac{1}{\text{your particular exchange rate on the conversion day}}$$

Your particular exchange rate is one of the following

- (a) the RBA rate, or
  - (b) a rate published by a foreign exchange organisation, or
  - (c) an agreed rate, or
  - (d) for taxable supplies of offshore supplies of low value goods a rate chosen under *Goods and Services Tax: Foreign Currency (Customs Value of Low Value Goods) Determination 2018*.
9. Conversion day is the date that the foreign currency is converted into Australian currency as set out in the determination.
10. Compliance Cost Impact: Minor – there will be no or minimal impact for both implementation and ongoing compliance costs. The change is minor or machinery in nature.

## Background

11. This determination repeals and replaces the *Goods and Services Tax: Foreign Currency Conversion Determination (No. 1) 2017* (the previous determination) - F2017L00845, registered on 30 June 2017.
12. 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.
13. 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.
14. The exchange rate can be a rate from the RBA rate, a foreign exchange organisation, or an agreed rate. For taxable supplies of offshore supplies of low value goods a rate chosen under *Goods and Services Tax: Foreign Currency (Customs Value of Low Value Goods) Determination 2018*.
15. The agreed rate means a particular rate agreed to between a supplier and a registered recipient. The agreed rate only applies for supplies made under the agreement and for the period of the agreement. Where the supplier and the recipient are associates, the agreed rate must reflect a rate agreed to by parties dealing at arm's length.
16. The exchange rate chosen by the entity must 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.
17. Section 6 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.
18. Paragraphs 6(c) and 7(d) provide additional conversion day options for non-residents that are making inbound intangible consumer supplies or offshore supplies of low value goods or both.
19. Paragraph 6(c) applies to non-resident entities that are not limited registration entities, but who make inbound intangible consumer supplies or offshore supplies of low value

goods or both. The conversion day for inbound intangible consumer supplies or offshore supplies of low value goods can be either:

- (a) a day under paragraph 6(a) or 6(b) or,
  - (b) in respect of the inbound intangible consumer supplies and offshore supplies of low value goods only, the final day of the relevant tax period in which GST is payable (subparagraph 6(c)(ii)).
20. If an entity applies subparagraph 6(c)(ii) as the conversion day for its inbound intangible consumer supplies or offshore supplies of low value goods or both, the conversion day for the entity's other supplies must be the day specified in paragraph 6(a) or 6(b).
21. Paragraph 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 paragraph 6(a) or 6(b) or the final day of the relevant tax period in which GST is payable (subparagraph 7(d)(ii)).

### **Consultation**

22. 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.
23. Broad consultation has occurred. Consultation was conducted through the ATO's Let's Talk site and through targeted consultation with key stakeholders.
24. The draft determination and draft explanatory statement were published on the ATO Legal Database at [www.ato.gov.au](http://www.ato.gov.au) on 29 June 2016 seeking feedback and comments for a period of three weeks. The ATO Legal Database sends emails and news feeds to direct subscribers such as tax professionals and other industry stakeholders. Consultation on the draft determination and draft explanatory statement was also announced on "What we are consulting about" at [ato.gov.au](http://ato.gov.au). In addition the draft determination and draft explanatory statement was sent to key stakeholders. Only one comment was received which was addressed by an amendment to the 'agreed rate' which was favourable to stakeholders.

### **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*.

### **Goods and Services Tax: Foreign Currency Conversion Determination 2018**

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 provides a method for working out the value of a taxable supply in Australian currency where an amount of the consideration for the supply is expressed in a foreign currency.

### **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.