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# Recipient Created Tax Invoice – Embedded Agreement Amending Legislative Instrument 2009

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## Explanatory Statement

### General Outline of Instrument

1. This determination is made under subsection 29-70(3) of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act).
2. The purpose of this determination is to update existing legislative instruments that are in respect of recipient created tax invoices.
3. The determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

### Date of effect

4. The instrument commences on 1 July 2009.
5. The instrument will not apply retrospectively.

### What this instrument is about

6. The purpose of this instrument is to update existing legislative instruments that are in force in respect of recipient created tax invoices.
7. Specifically, this instrument provides taxpayers with an alternative to the current requirement for the recipient to hold a written agreement with the supplier before issuing a recipient created tax invoice (RCTI). This will give recipients of supplies the option either of maintaining separate written agreements specifying the supplies to which each agreement relates and containing specific terms or of embedding these matters in tax invoices they issue.
8. This will provide flexibility and ease record keeping requirements as written agreements will not have to be retained where the alternative approach is adopted.
9. This instrument also makes technical corrections in regard to reference numbers in three instruments. The correct reference numbers for the relevant Legislative Instruments are reflected in the Tables, below.

### What is the effect of this instrument

10. The effect of this instrument is that an embedded agreement will be treated as an alternative to a written agreement for the purposes of RCTI instruments. It will also make minor technical corrections.

11. The Tax Office believes the revenue impact will be nil as the instrument is not expected to alter the tax base. The instrument merely aims to reduce the compliance burden on taxpayers.

## **Background**

12. Under subsection 29-70(3) of the GST Act, the Commissioner may determine in writing that a 'tax invoice' belonging to a class of tax invoices that may be issued by the 'recipient' of a 'taxable supply' is a 'recipient created tax invoice'. The Commissioner has made many such RCTI instruments since the commencement of the GST.
13. Amongst other things, the requirements of these RCTI instruments include the requirement that a recipient hold a written agreement with the supplier before issuing an RCTI.
14. This present instrument will provide an alternative to the requirement to hold a written agreement by embedding an agreement in a tax invoice issued by the recipient.
15. As a result of the instrument providing an alternative, the existing RCTI instruments (that make reference to the written agreement requirement) need to be updated to ensure that this alternative is reflected in those RCTI instruments.
16. The inclusion of an embedded agreement in the existing RCTI instruments will provide an alternative to the requirement for the parties to hold a written agreement from 1 July 2009.

## **Consultation**

17. The matter was raised and discussed at meetings of the National Tax Liaison Group GST Subcommittee. No other consultation was undertaken as the instrument is considered minor or machinery in nature, and does not substantially change the law. 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.

## **RCTI Determinations to be amended by this instrument**

18. Because some of the RCTI determinations that are in force refer to a recipient indemnifying the supplier for GST and penalty, and some do not, this determination is effected in two ways.
19. Table 1 below, lists those RCTI determinations that do not refer a recipient indemnifying the supplier for GST and penalty.
20. Table 2 below, lists those RCTI determinations that do refer to a recipient indemnifying the supplier for GST and penalty.
21. The amendments to the determinations in Table 1 do not need to refer to an indemnity.

**Table 1: RCTI determinations that do not refer to an indemnity**

<i>RCTI determinations that do not refer to an indemnity</i>
F2006B11580 – CRCTI 2000/1 <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2000</i>

<i>RCTI determinations that do not refer to an indemnity</i>
F2005B02437 - RCTI 2000/3 (as amended) - Centenary of Federation licensees <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 3) 2000.</i>
F2005B03122 - RCTI 2000/5 – Franchisees Agreements <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 5) 2000.</i>
F2005B02426 - RCTI 2000/9 – Direct selling <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 9) 2000.</i>
F2005B02425 - RCTI 2000/10 - Securities and derivatives <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 10) 2000.</i>
F2005B02424 - RCTI 2000/12 – Loyalty and customer reward programs <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 12) 2000.</i>
F2005B02419 - RCTI 2000/13 (as amended)- Retail: selling agents <i>New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 13) 2000</i>
F2005B02415 - RCTI 2000/14 (as amended) - Retail: merchandisers <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 14) 2000</i>
F2006B00662 - RCTI 2000/15 (as amended) - Caravan parks <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 15) 2000</i>
F2005B02409 - RCTI 2000/16 (as amended) - Prize winning events <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 16) 2000</i>
F2005B02408 - RCTI 2000/17 (as amended) - Recycling: precious metals <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 17) 2000</i>
F2006B00083- RCTI 2000/20 (as amended) – Licensing <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 20) 2000</i>
F2005B02399 - RCTI 2000/21 –Telephone information service provider <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 21) 2000.</i>
F2006B00343 - RCTI 2000/22 ( as amended) - Labour services <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 22) 2000</i>
F2006B00209 - RCTI 2000/23 (as amended) - Referral services <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 23) 2000</i>
F2005B02068 - RCTI 2000/24 (as amended) - Access to premises (including coin operated machines) <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 24) 2000</i>
F2005B02752 - RCTI 2000/28 – Worker’s compensation insurance premiums: Joint Coal Board of New south Wales <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 28) 2000.</i>

<i>RCTI determinations that do not refer to an indemnity</i>
F2006B11594 - RCTI 2000/30 – Insurance: reinsurance and retrocession <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 30) 2000.</i>
F2005B02754 - RCTI 2000/31 – Authors and publishers <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 31) 2000.</i>
F2006B11606 - RCTI 2000/32 – Commission agents and publishers <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 32) 2000.</i>
F2005B02756 - RCTI 2000/34 – Friendly societies <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 34) 2000.</i>
F2005B02757 - RCTI 2000/36 (as amended) - Mineral extraction <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 36) 2000</i>
F2005B02758 - RCTI 2000/37 (as amended)– Renting <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 37) 2000</i>
F2005B02772 - RCTI 2000/40 – Vending machine operator <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 40) 2000.</i>
F2005B02801 - RCTI 2000/48 – Determination <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 48) 2000.</i>
F2006B11590 - RCTI 2000/50 – Education <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 50) 2000.</i>
F2006B11603 - RCTI 2001/1 – Recipient created tax invoices <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2001</i>
F2005B02811 - RCTI 2001/3 (as amended) - Fuel wholesalers <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 3) 2001</i>
F2005B02814 - RCTI 2001/4 – Superannuation schemes <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 4) 2001</i>
F2006B11588 - RCTI 2001/5 (as amended) - Transportation of photographic/imaging equipment <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 5) 2001</i>
F2005B02818 - RCTI 2001/6 – Certain legal services <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 6) 2001</i>
F2006B11607 - RCTI 2001/7 – Royalties for copyrighted material <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 7) 2001</i>
F2006B00095 - RCTI 2003/1 – Refrigerant processors <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2003</i>
F2005B02830 - RCTI 2003/3 (as amended)- Electronic Pharmacy Data <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 3) 2003</i>

22. The amendments to the determinations in Table 2 need to refer to an indemnity.

**Table 2: RCTI determinations that do refer an indemnity**

<i>RCTI determinations that do refer to an indemnity</i>
F2006B11599 - RCTI 2000/1 - Horse racing clubs <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1A) 2000</i>
F2006B11586 - RCTI 2000/2 (as amended) - Road transport <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 2) 2000.</i>
F2006B00728 - RCTI 2000/4 (as amended) - Recycling: general <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 4) 2000.</i>
F2006B01574 - RCTI 2000/6 – Research grants <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 6) 2000.</i>
F2007B00005 - RCTI 2000/7 - Greyhound racing <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 7) 2000</i>
F2005B02427 - RCTI 2000/8 (as amended) - Horse breeders' incentive scheme operators <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No.8) 2000</i>
F2006B11592 - RCTI 2000/25 – Food and grocery manufacturers and retailers <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 25) 2000.</i>
F2005B02067 - RCTI 2000/26 – Tourism: land product supplier <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 26) 2000.</i>
F2005B02751 - RCTI 2000/27 (as amended) – Construction <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 27) 2000</i>
F2005B02753 - RCTI 2000/29 (as amended) - Scrap metal dealers <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 29) 2000</i>
F2005B02755 - RCTI 2000/33 – Financial planning services <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 33) 2000.</i>
F2005B02790 - RCTI 2000/42 (as amended) - Fishing operations <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 42) 2000</i>
F2005B02791 - RCTI 2000/43 (as amended) - Primary production labour services <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 43) 2000</i>
F2005B02799 - RCTI 2000/44 – General insurance agents <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 44) 2000.</i>
F2006B00362 - RCTI 2000/46 (as amended) - Vehicle dealers <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 46) 2000</i>

<i>RCTI determinations that do refer to an indemnity</i>
F2007B00006 - RCTI 2000/49 – Financial supply by defined commission or fee based service <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 49) 2000.</i>
F2006B11581 - RCTI 2000/63 (as amended) - Quarry Operators <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 63) 2000.</i>
F2005B02802 - RCTI 2000/64 – General insurance sub-agents <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 64) 2000.</i>
F2005L01636 - RCTI 2005/1 – Reconditioned motor vehicle parts <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2005</i>
F2006L03480 - RCTI 2006/1 – Demand side response <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2006</i>
F2008L02399 = RCTI 2008/1 – Agricultural producers <i>A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2008</i>

23. Clause 1 of the instrument numbered F2006B11607 on the Federal Register of Legislative Instruments is to be amended so that the determination may cited as *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 7) 2001* instead of *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 5) 2001*.
24. Clause 1 of the instrument numbered F2006B11599 on the Federal Register of Legislative Instruments is to be amended so that the determination may cited as *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1A) 2000* instead of *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2000*.
25. Clause 1 of the instrument numbered F2007B00005 on the Federal Register of Legislative Instruments is to be amended so that the determination may cited as *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 7) 2000* instead of *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 2) 2000*.
26. Clause 1 of the instrument numbered F2008L02399 on the Federal Register of Legislative Instruments is to be amended so that the determination may cited as *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2008* instead of *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 3) 2008*.

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7 May 2009

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**Legislative references:**

*A New Tax System (Goods and Services Tax) Act 1999*  
*Legislative Instruments Act 2003*