

# ***RCTI 2017/6 - Explanatory statement -***



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## Explanatory Statement

# Goods and Services Tax: Recipient Created Tax Invoice Determination 2017 for Agricultural Products, Government Related Entities and Large Business Entities

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### General outline of determination

1. The determination is made under subsection 29-70(3) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
2. 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.
3. The determination allows the following three classes of recipients to issue recipient created tax invoices (RCTIs) in certain circumstances:
  - (i) recipients of **agricultural products**<sup>1</sup>;
  - (ii) recipients that are government related entities<sup>2</sup>; and
  - (ii) recipients who are **large business entities**.<sup>3</sup>
4. The determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

### Date of effect

5. The determination commences on the day after registration on the Federal Register of Legislation.

### Background

6. The determination replaces *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2000* (F2006B11580) registered on 15 November 2006. The previous determination is repealed on commencement of the determination.

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<sup>1</sup>The phrase “**agricultural products**” is defined in paragraph 12 of the determination.

<sup>2</sup>A government related entity is defined in section 195-1 of the GST Act and includes a government entity as defined in section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

<sup>3</sup>The phrase “**large business entity**” is defined in paragraph 12 of the determination. Generally, a large business entity is an entity that has a modified GST turnover that includes input taxed supplies, and meets the tax period turnover threshold. It also includes members of GST groups, eligible GST group members and joint venture operators that have a modified GST turnover that meet the tax period turnover threshold. Subsection 27-15(3) of the GST Act provides that the tax period turnover threshold is \$20 million or such other amount as the regulations specify.

### What is the determination about

7. Generally, under the GST Act, tax invoices are issued by the entity that makes the taxable supply.
8. The purpose of the determination is to outline three classes of recipients of taxable supplies that the Commissioner has determined may issue recipient created tax invoices (RCTIs) to the supplier of the taxable supply. The Commissioner makes the determination by taking into account a number of factors including the type of industry, the taxable supply, GST turnover of the recipient and certain requirements for issuing RCTIs. The factors reflect a balance between facilitating the practical use of RCTIs by businesses and maintaining the integrity of the GST system.
9. In accordance with the determination, a recipient of a taxable supply may issue an RCTI for the taxable supply if that recipient belongs to one of the three classes and satisfies the other requirements set out in the determination. This determination requires the recipient to obtain the supplier's agreement that the recipient will issue RCTIs and the supplier will not issue tax invoices.

### What is the effect of the determination

10. The effect of the determination is to allow the three classes of GST registered recipients of taxable supplies to choose to issue RCTIs to assist with their payment and invoicing processes. For example, it is commonplace for recipients of **agricultural products** to determine the value of supplies for their suppliers. Enabling the recipients to issue RCTIs will streamline the invoicing and payment processes for both the recipients and their suppliers.
11. The determination is substantially the same as the previous determination that it replaces (F2006B11580) but excludes a small class of recipients. An entity that satisfied the requirements of the previous determination will satisfy the requirements of the determination with the exception of recipients that are monthly GST reporters where:
  - (a) the recipient carried on an enterprise for less than three months in the indirect tax zone,<sup>4</sup> or
  - (b) the recipient has a history of failing to comply with taxation obligations.<sup>5</sup>
12. Compliance cost impact: there will be no or minimal impact for both implementation and ongoing compliance costs. The legislative instrument is minor or machinery in nature.

### Consultation

13. 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.
14. Broad consultation has been undertaken. The draft determination and draft explanatory statement were published on the ATO Legal database at [ato.gov.au](http://ato.gov.au) seeking feedback and comments for a period of two weeks. Notice of the draft determination was also published to [ato.gov.au](http://ato.gov.au) and subscription alerts issued. Tax professionals and tax associations regularly review both the Legal database and [ato.gov.au](http://ato.gov.au) and further promulgate advice of new drafts

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<sup>4</sup> See paragraph 27-15(1)(b).

<sup>5</sup> See paragraph 27-15(1)(c).

issued in their internal news bulletins. The major legal publishers also publish news of the drafts in their key tax alerting services - such as the Weekly Tax Bulletin (published by Thomson Reuters Australia) and Tax Tracker and Tax Week (published by CCH Australia). Additionally, draft determinations and draft explanatory statements have been published on the ATO Consultation Hub. Links to these drafts were published organisations and newsletters such as the Taxation News (Chartered Accountants Australia and New Zealand) weekly bulletin. No comments have been received to date.

## **Legislative References**

*A New Tax System (Goods and Services Tax) Act 1999 (GST Act).*  
*Acts Interpretation Act 1901*  
*Legislation 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*.

### **Goods and Services Tax: Recipient Created Tax Invoice Determination 2017 for Agricultural Products, Government Related Entities and Large Business Entities**

The 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**

Generally, tax invoices are issued by a supplier under the basic rules for GST. This Instrument allows three classes of recipients of a taxable supply to issue the tax invoice (called a recipient created tax invoice) subject to a number of provisos. The three classes of recipients are:

- (a) recipients of **agricultural products**;
- (b) recipients that are government related entities; and
- (c) recipients that are **large business entities**.

This Instrument is intended to allow recipients and suppliers to simplify their invoicing and payment processes.

#### **Human rights implications**

The Instrument does not engage any of the applicable rights or freedoms. It allows for the streamlining of invoicing and payment practices.

#### **Conclusion**

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