



Goods and Services Tax: Waiver of Tax Invoice Requirement – Government Undercover Agents Determination (No 1) 2006

Explanatory Statement

General Outline of instrument

This instrument sets out the circumstances where a tax invoice is not required for a particular entity to claim input tax credits under Division 29 of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

The proposed instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. It is made by, and is legally binding upon, the Commissioner of Taxation.

Date of effect

This instrument applies from 1 October 2006.

What is this instrument about?

Under Division 29 of the GST Act, a tax invoice is required in order to claim input tax credits for any creditable acquisitions that an entity makes (unless the value of the taxable supply is \$50 or less).

This determination will waive the tax invoice requirement for government law enforcement agencies who reimburse work expenses incurred by their employees or agents working as undercover officers under assumed names where, due to the nature of the officers' duties, they are unable to obtain a tax invoice.

For the purposes of the determination, a *government law enforcement agency* means a government related entity whose responsibilities include law enforcement services for preventing criminal behaviour.

What is the effect of this instrument?

The effect of this instrument is that government law enforcement agencies that employ undercover officers who perform duties under assumed names for the purposes of law enforcement will have a clear understanding of the requirements to claim any legally entitled input tax credits for creditable acquisitions made on their behalf.

Background

Undercover officers as employees or agents of government law enforcement agencies using assumed identities often incur expenses as part of their duties that are reimbursed by their employer. However, due to the nature of the undercover officer's work, they may not always be able to obtain a tax invoice.

This determination recognises the special difficulties government law enforcement agencies face in complying with GST tax invoice requirements. This determination avoids the need to make a GST administrative determination exercising the Commissioner's discretion for each creditable acquisition that an undercover officer makes.

Consultation

This determination arose from representations made by state government treasury officials. Those officials outlined the difficulties faced by law enforcement agencies in complying with tax invoice requirements. They were extremely supportive of the determination. In subsequent discussions, state government treasury officials reiterated their support.

Extensive consultation was undertaken with all the business and service lines of the Tax Office. None of them could foresee any adverse consequences for their operations from the issue of the determination.

Deputy Commissioner of Taxation

[28 September 2006]

Legislative references:

A New Tax System (Goods and Services Tax) Act 1999