

RCTI 2009/1 -



Recipient Created Tax Invoice – Embedded Agreement Amending Legislative Instrument 2009

I, Shane Reardon, make this determination under subsection 29-70(3) of the *A New Tax System (Goods and Services Tax) Act 1999*.

1. Name of Determination

This determination is the *Recipient Created Tax Invoice – Embedded Agreement Amending Legislative Instrument 2009*.

2. Commencement

This determination commences on 1 July 2009.

3. Application

This determination only applies to the determinations listed in tables 1 and 2 below, and does so only with effect from the commencement of this determination:

4. What this Determination does

(1) By this determination:

- (a) an agreement embedded in a tax invoice that the recipient of a supply issues will be an alternative to a written agreement for the purposes of the RCTI determinations. Because some of the 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.

Table 1 below, lists those RCTI determinations that do not refer to a recipient indemnifying the supplier for GST and penalty.

Table 2 below, lists those RCTI determinations that do refer to a recipient indemnifying the supplier for GST and penalty.

- (b) in relation to the instruments in Table 1 below, subparagraph 4(f) or 5(f) of the instruments, as indicated in the second column of the table, referring to requirements that must be met in respect of written agreements, is replaced with the following:

The recipient must have either:

- a written agreement with the supplier specifying the supplies to which it relates, that is current and effective when the RCTI is issued, agreeing that:
 - (i) the recipient can issue tax invoices in respect of the supplies;
 - (ii) the supplier will not issue tax invoices in respect of the supplies;

- (iii) the supplier acknowledges that it is registered for GST when it enters into the agreement and that it will notify the recipient if it ceases to be registered; and
- (iv) the recipient acknowledges that it is registered when it enters into the agreement and that it will notify the supplier if it ceases to be registered for GST; or
- an agreement with the supplier embedded in an RCTI it issues that contains the following statement:

The recipient and the supplier declare that this agreement applies to supplies to which this tax invoice relates. The recipient can issue tax invoices in respect of these supplies. The supplier will not issue tax invoices in respect of these supplies. The supplier acknowledges that it is registered for GST and that it will notify the recipient if it ceases to be registered. The recipient acknowledges that it is registered for GST and that it will notify the supplier if it ceases to be registered for GST. Acceptance of this RCTI constitutes acceptance of the terms of this written agreement.

Both parties to this supply agree that they are parties to an RCTI agreement. The supplier agrees to notify the recipient if the supplier does not wish to accept the proposed agreement within 21 days of receiving this document.

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

<i>RCTI determinations that do not refer to an indemnity</i>	<i>Para.</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>	4(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)

<i>RCTI determinations that do not refer to an indemnity</i>	<i>Para.</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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)

<i>RCTI determinations that do not refer to an indemnity</i>	<i>Para.</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>	5(f)
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>	5(f))
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)

<i>RCTI determinations that do not refer to an indemnity</i>	<i>Para.</i>
F2005B02814 - RCTI 2001/4 – Superannuation schemes <i>A New Tax System (Goods and Services Tax) Act 1999</i> <i>Classes of Recipient Created Tax Invoice Determination (No. 4) 2001</i>	5(f)
F2006B11588 - RCTI 2001/5 (as amended) - Transportation of photographic/imaging equipment <i>A New Tax System (Goods and Services Tax) Act 1999</i> <i>Classes of Recipient Created Tax Invoice Determination (No. 5) 2001</i>	5(f)
F2005B02818 - RCTI 2001/6 – Certain legal services <i>A New Tax System (Goods and Services Tax) Act 1999</i> <i>Classes of Recipient Created Tax Invoice Determination (No. 6) 2001</i>	5(f)
F2006B11607 - RCTI 2001/7 – Royalties for copyrighted material <i>A New Tax System (Goods and Services Tax) Act 1999</i> <i>Classes of Recipient Created Tax Invoice Determination (No. 7) 2001</i>	5(f)
F2006B00095 - RCTI 2003/1 – Refrigerant processors <i>A New Tax System (Goods and Services Tax) Act 1999</i> <i>Classes of Recipient Created Tax Invoice Determination (No. 1) 2003</i>	5(f)
F2005B02830 - RCTI 2003/3 (as amended)- Electronic Pharmacy Data <i>A New Tax System (Goods and Services Tax) Act 1999</i> <i>Classes of Recipient Created Tax Invoice Determination (No. 3) 2003</i>	5(f)

(c) The instruments in Table 2, below, make reference to a recipient indemnifying the supplier for GST and penalty: In relation to the instruments in Table 2, subparagraph 5(f) or 6(f) of the instruments, as indicated in the second column of the table, referring to requirements that must be met in respect of written agreements, is replaced with the following:

The recipient must have either:

- a written agreement with the supplier specifying the supplies to which it relates, that is current and effective when the RCTI is issued, agreeing that:
 - (i) the recipient can issue tax invoices in respect of the supplies;
 - (ii) the supplier will not issue tax invoices in respect of the supplies;
 - (iii) the supplier acknowledges that it is registered for GST when it enters into the agreement and that it will notify the recipient if it ceases to be registered;
 - (iv) the recipient acknowledges that it is registered when it enters into the agreement and that it will notify the supplier if it ceases to be registered for GST; and
 - (v) the recipient indemnifies the supplier for any liability for GST and penalty that may arise from an understatement of the GST payable on any of the

specified supplies received on a tax invoice the recipient issues; or

- an agreement with the supplier embedded in an RCTI it issues that contains the following statement:

The recipient and the supplier declare that this agreement applies to supplies to which this tax invoice relates. The recipient can issue tax invoices in respect of these supplies. The supplier will not issue tax invoices in respect of these supplies. The supplier acknowledges that it is registered for GST and that it will notify the recipient if it ceases to be registered. The recipient acknowledges that it is registered for GST and that it will notify the supplier if it ceases to be registered for GST. The recipient indemnifies the supplier for any liability for GST and penalty that may arise from an understatement of the GST payable on any of the specified supplies received on a tax invoice the recipient issues. Acceptance of this RCTI constitutes acceptance of the terms of this written agreement.

Both parties to this supply agree that they are parties to an RCTI agreement. The supplier agrees to notify the recipient if the supplier does not wish to accept the proposed agreement within 21 days of receiving this document.

Table 2: RCTI determinations that do refer an indemnity

<i>RCTI determinations that do refer to an indemnity</i>	<i>Para.</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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)

<i>RCTI determinations that do refer to an indemnity</i>	<i>Para.</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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)
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>	5(f)

<i>RCTI determinations that do refer to an indemnity</i>	<i>Para.</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>	5(f)
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>	5(f)
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>	6(f)
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>	6(f)

(d) The correct citations for the following instruments are reflected in the Tables, above.

- (i) Technical correction - in clause 1 of the instrument numbered F2006B11607 on the Federal Register of Legislative Instruments, omit the following:

This Determination may be cited as the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 5) 2001.*

and replace with

This Determination may be cited as the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 7) 2001.*

- (ii) Technical correction - in clause 1 of the instrument numbered F2006B11599 on the Federal Register of Legislative Instruments, omit the following:

This Determination may be cited as the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2000.*

and replace with

This Determination may be cited as the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1A) 2000.*

- (iii) Technical correction - in clause 1 of the instrument numbered F2007B00005 on the Federal Register of Legislative Instruments, omit the following:

This Determination may be cited as the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 2) 2000*.

and replace with

This Determination may be cited as the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 7) 2000*.

- (iv) Technical correction - in clause 1 of the instrument numbered F2008L02399 on the Federal Register of Legislative Instruments, omit the following:

This Determination may be cited as the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 3) 2008*.

and replace with

This Determination may be cited as the *A New Tax System (Goods and Services Tax) Act 1999 Classes of Recipient Created Tax Invoice Determination (No. 1) 2008*.

- (2) This determination does not revoke or vary any previous determination made by the Commissioner or a delegate of the Commissioner, except to the extent subclause 4(1) varies a determination listed in the tables above.

Dated this 7th day of May 2009



Shane Reardon
Deputy Commissioner of Taxation