


# ***GSTD 2004/1A2 - Addendum - Goods and services tax: when will the requirement to hold a tax invoice or adjustment note be waived as a result of a court or tribunal decision?***

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## Addendum

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### Goods and Services Tax Determination

Goods and services tax: when will the requirement to hold a tax invoice or adjustment note be waived as a result of a court or tribunal decision?

This Addendum amends Goods and Services Tax Determination GSTR 2004/1 to reflect:

- changes in the law made by the *Tax Laws Amendment (2010 GST Administration Measure No. 2) Act 2010* and the repeal of regulations 29.70.01 and 29.70.02 to the A New Tax System (Goods and Services Tax) Regulations 1999 by the A New Tax System (Goods and Services Tax) Amendment Regulations 2010 (No. 1) (206 of 2010); and
- to reflect the addition of regulation 29-80.02 to the A New Tax System (Goods and Services Tax) Regulations 1999 by the A New Tax System (Goods and Services Tax) Amendment Regulations 2009 (No. 2) (385 of 2009).

**GSTD 2004/1 is amended as follows:**

**1. Preamble**

Omit the Note.

**2. Footnote 1**

(a) After 'subsection 29-10(3)'; insert 'of the GST Act'.

(b) After 'subsection 29-80(1)'; insert 'of the GST Act'.

**3. Footnote 3**

(a) After 'subsection 29-10(3)'; insert 'of the GST Act'.

(b) Omit '\$50'; substitute '\$75'.

(c) After 'subsection 29-80(2)'; insert 'of the GST Act'.

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## 4. Footnote 5

Omit 'and regulation 29-70.01 of the A New Tax System (Goods and Services Tax) Regulations 1999'.

## 5. Footnote 6

- (a) After 'and 29-80(2)'; insert 'of the GST Act'.
- (b) After 'subsection 75-30(1)'; insert 'of the GST Act'.
- (c) After 'subsection 83-35(1)'; insert 'of the GST Act'.
- (d) After 'and 29-75(2)' insert 'of the GST Act'.

## 6. Paragraphs 5 and 6

Omit 'subsection 29-70(1) or subsection 29-75(1)'; substitute 'subsections 29-70(1B) or 29-75(1) of the GST Act'.

## 7. Footnotes 12, 13 and 14

Omit the footnotes; substitute:

<sup>12</sup> Decisions in relation to the exercise of these discretions are not reviewable GST decisions under subsection 110-50(2) of Schedule 1 to the TAA.

<sup>13</sup> Section 105-10 of Schedule 1 to the TAA requires the Commissioner to make an assessment if requested, subject to the request being made within the time limits in subsection 105-10(2) of Schedule 1 to the TAA.

<sup>14</sup> The making of an assessment under section 105-5 of Schedule 1 to the TAA is a reviewable indirect tax decision under subsection 105-40(2) of Schedule 1 to the TAA. Subsection 105-40(1) of Schedule 1 to the TAA gives a right of objection in the manner set out in Part IVC of the TAA.

## 8. Paragraph 8

Omit 'section 59 of the TAA'; substitute 'section 105-100 of Schedule 1 to the TAA'.

## 9. Footnote 15

Omit 'section 59 of the TAA'; substitute 'Section 105-100 of Schedule 1 to the TAA'.

## 10. Paragraph 9

- (a) Omit 'above'; substitute 'of this Determination'.
- (b) After 'or 29-75(1)'; insert 'of the GST Act'.

## 11. Paragraph 11

- (a) Omit 'subsection 29-10(1) or (2)'; substitute 'subsections 29-10(1) or (2) of the GST Act'.
- (b) Omit 'subsection 29-20(1) or (2)'; substitute 'subsections 29-20(1) or (2) of the GST Act'.

**12. Paragraph 14**

- (a) After all occurrences of 'or 29-75(1)'; insert 'of the GST Act'.
- (b) After 'or 29-20(3)(d)'; insert 'of the GST Act'.
- (c) After 'subsection 29-10(4)'; insert 'of the GST Act'.

**13. Paragraph 15**

After 'subsection 29-10(4)'; insert 'of the GST Act'.

**14. Paragraph 17**

After 'subsection 29-70(1)'; insert 'of the GST Act'.

**15. Paragraph 18**

Omit 'section 23 of the TAA'; substitute 'section 105-10 of Schedule 1 to the TAA'.

**16. Paragraph 19**

- (a) After 'subsection 29-70(1)'; insert 'of the GST Act'.
- (b) After 'subsection 29-10(3)'; insert 'of the GST Act'.

**17. Paragraph 21**

- (a) Omit 'our'; substitute 'the Commissioner's'.
- (b) Omit the second sentence.
- (c) Insert after the paragraph:

**Note 1:** *The Addendum to this Determination that issued on 11 July 2007 explains our view of the law as it applied from 1 July 2007.*

**Note 2:** *The Addendum to this Determination that issued on 25 January 2012, explains the Commissioner's view of the law as it applied from 1 July 2010.*

**18. Paragraph 22**

Omit the paragraph.

**19. Related Rulings/Determinations**

Omit:

- GSTR 1999/1
- GSTR 2000/17

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## 20. Legislative references

(a) Omit:

- GSTR 1999 29-70.01
- TAA 1953 22
- TAA 1953 23
- TAA 1953 23(2)
- TAA 1953 59
- TAA 1953 62(1)
- TAA 1953 62(2)
- TAA 1953 62(3)

(b) Insert:

- GSTA 1999 29-70(1B)
- TAA 1953 Sch 1 105-5
- TAA 1953 Sch 1 105-10
- TAA 1953 Sch 1 105-10(2)
- TAA 1953 Sch 1 105-40(1)
- TAA 1953 Sch 1 105-40(2)
- TAA 1953 Sch 1 105-60
- TAA 1953 Sch 1 105-100

This Addendum explains the Commissioner's view of the law as it applied from 1 July 2010.

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### Commissioner of Taxation

25 January 2012

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#### ATO references

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