

LI 2023/5 -



A New Tax System (Goods and Services Tax): Waiver of Tax Invoice Requirement (Acquisitions from or by a Beneficiary of a Bare Trust) Determination 2023

I, Ben Kelly, Deputy Commissioner of Taxation, make the following determination.

Dated 7 March 2023

Ben Kelly
Deputy Commissioner of Taxation

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<i>A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from or Acquisitions by a Beneficiary of a Bare Trust) Legislative Instrument 2013</i>	<i>3</i>

1 Name

This instrument is the *A New Tax System (Goods and Services Tax): Waiver of Tax Invoice Requirement (Acquisitions from or by a Beneficiary of a Bare Trust) Determination 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of the instrument	On the day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 29-10(3) of the Act.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) ABN;
- (b) creditable acquisition;
- (c) GST return;
- (d) input tax credit.

In this determination:

Act means the *A New Tax System (Goods and Services Tax) Act 1999*.

bare trust includes a trust where the trustee only acts at the direction of the beneficiary in respect of dealings in the trust property and has no independent role in respect of the trust property, even if the trust may not otherwise strictly be a bare trust because the trustee only has minor duties to perform.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

6 Waiver of the requirement to hold a tax invoice

- (1) For the purposes of attributing an input tax credit for a creditable acquisition to a tax period, a recipient is not required to hold a tax invoice under subsection 29-10(3) of the Act if:
 - (a) the recipient makes a creditable acquisition from a beneficiary through the trustee of the bare trust; and
 - (b) at the time the recipient gives a GST return to the Commissioner for the tax period to which the input tax credit (or any part of the input tax credit) for the acquisition would otherwise be attributable, the recipient holds a document that meets the requirements in subsection 7(1).
- (2) For the purposes of attributing an input tax credit for a creditable acquisition to a tax period, a beneficiary of a bare trust is not required to hold a tax invoice under subsection 29-10(3) of the Act if:
 - (a) the beneficiary makes a creditable acquisition from a third party through the trustee of the bare trust, where the total price of the thing or things acquired is at least \$1,000 or such higher amount specified in regulations made for the purposes of subparagraph 29-70(1)(c)(ii) of the Act; and
 - (b) at the time the beneficiary gives a GST return to the Commissioner for the tax period to which the input tax credit (or any part of the input tax credit) for the acquisition would otherwise be attributable, the beneficiary or the trustee of the bare trust holds a document that meets the requirements in subsection 7(2).

7 Document information requirements

- (1) The requirements referred to in paragraph 6(1)(b) are that the document:
 - (a) meets the requirements in paragraphs 29-70(1)(a) and 29-70(1)(c) of the Act, other than the requirement in subparagraph 29-70(1)(c)(i); and
 - (b) contains enough information to enable the identity or ABN of the trustee of the bare trust, or of the bare trust, to be clearly ascertained from the document.
- (2) The requirements referred to in paragraph 6(2)(b) are that the document:
 - (a) meets the requirements in paragraphs 29-70(1)(a) and 29-70(1)(c) of the Act, other than the requirement in subparagraph 29-70(1)(c)(ii); and
 - (b) contains enough information to enable the identity or ABN of the trustee of the bare trust, or of the bare trust, to be clearly ascertained from the document.

Schedule 1—Repeals

A New Tax System (Goods and Services Tax) Waiver of Tax Invoice Requirement (Acquisitions from or Acquisitions by a Beneficiary of a Bare Trust) Legislative Instrument 2013

1 The whole of the instrument

Repeal the instrument.