



Diplomatic Privileges and Immunities (Indirect Tax Concession Scheme) Determination 2000

I, ALEXANDER JOHN GOSSE DOWNER, Minister for Foreign Affairs, make this Determination under section 10B of the *Diplomatic Privileges and Immunities Act 1967*.

Dated 28 | 5 | 2000

Minister for Foreign Affairs

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1 Name of Determination

This Determination is the *Diplomatic Privileges and Immunities (Indirect Tax Concession Scheme) Determination 2000*.

2 Commencement

This Determination commences on the commencement of Schedule 7 to the *A New Tax System (Indirect Tax and Consequential Amendments) Act (No. 2) 1999*.

3 Definitions

- (1) In this Determination:

Act means the *Diplomatic Privileges and Immunities Act 1967*.

member of the family or ***family member***, in relation to a person, means any of the following members of the person's family who forms part of the person's household, and whose arrival has been notified to the Department of Foreign Affairs and Trade under Article 10 of the Convention:

- (a) the person's spouse;
- (b) unmarried children up to the age of 21 years;
- (c) unmarried children up to the age of 25 years who are undertaking full-time studies at an Australian educational institution;
- (d) unmarried children who are incapable of self-support because of a physical or mental disability.

sending State, in relation to a mission, means the overseas country which the mission represents.

taxable supply has the meaning given by section 195-1 of the GST Act.

tax invoice has the meaning given by section 29-70 of the GST Act.

- (2) In this Determination, unless the contrary intention appears, a reference to a member of the diplomatic staff (including a head of mission), or the administrative and technical staff, of a mission covered by this Determination includes a member of the staff member's family.

4 Missions covered by this Determination

For subparagraph 10B (1) (a) (i) of the Act, a mission representing a country mentioned in an item in Schedule 1 is a mission covered by this Determination.

5 Persons covered by this Determination

For subparagraph 10B (1) (a) (ii) of the Act, the following persons (in relation to a mission covered by this Determination) are covered by this Determination:

- (a) the head of the mission;
- (b) any other member of the diplomatic staff of the mission;
- (c) a member of the administrative and technical staff of the mission.

6 Acquisitions covered by this Determination

- (1) For paragraph 10B (1) (a) of the Act, the following acquisitions are covered by this Determination:

- (a) an acquisition of any of the following, recorded on a single tax invoice for a taxable supply of at least \$200 (including indirect tax):
 - (i) goods (by purchase or lease);
 - (ii) diplomatic mail services;
 - (iii) telecommunications services;
 - (iv) electricity or gas services;
 - (v) protection of premises services;
 - (vi) removal of goods services;
 - (vii) freight and cartage other than removal of goods;
- (b) an acquisition of goods that are freed from duties of excise by section 9 of the Act;
- (c) an acquisition of any of the following, if the acquisition is subject to an arrangement between the sending State and the Commonwealth for reimbursement of indirect tax:
 - (i) construction or renovation services;
 - (ii) real property;
 - (iii) any other thing.

- (2) However:

- (a) a limitation mentioned in an item in Schedule 1 applies to an acquisition by a person mentioned in the item, if the acquisition is made for a use mentioned, in relation to that person, in the item; and
- (b) an acquisition of a motor vehicle for the personal use of a member of the diplomatic staff (but not a member of the staff member's family) of a mission covered by this Determination is covered by this Determination only if:
 - (i) the vehicle is acquired to replace a motor vehicle that has been stolen or damaged beyond repair and for which the staff member received:
 - (A) a concession under section 10B of the Act; or
 - (B) an exemption from indirect tax under subsection 8 (1A) of the Act; or

- (ii) within the previous 3 years, the staff member has not received:
 - (A) a concession under section 10B of the Act for the acquisition of another motor vehicle; or
 - (B) an exemption from indirect tax under subsection 8 (1A) of the Act on the importation of a motor vehicle; and
- (c) an acquisition of a motor vehicle for the personal use of a member of the family of a member of the diplomatic staff of a mission covered by this Determination is covered by this Determination only if:
 - (i) the vehicle is acquired to replace a motor vehicle that has been stolen or damaged beyond repair and for which a family member (except the member of the diplomatic staff) received:
 - (A) a concession under section 10B of the Act; or
 - (B) an exemption from indirect tax under subsection 8 (1A) of the Act; or
 - (ii) the family member is eligible to hold a driver's licence that is valid in Australia and, within the previous 3 years, no family member (except the member of the diplomatic staff) has received:
 - (A) a concession under section 10B of the Act for the acquisition of another motor vehicle; or
 - (B) an exemption from indirect tax under subsection 8 (1A) of the Act on the importation of a motor vehicle; and
- (d) unless otherwise provided in Schedule 1, an acquisition of a locally-manufactured motor vehicle for the personal use of a member of the administrative and technical staff of a mission covered by this Determination is covered by this Determination only if:
 - (i) the vehicle is acquired within the first 6 months of the staff member's installation in Australia and no family member has previously received:
 - (A) a concession under section 10B of the Act for the acquisition of another motor vehicle; or
 - (B) an exemption from indirect tax under subsection 8 (1A) of the Act on the importation of a motor vehicle; or
 - (ii) the vehicle is acquired to replace a motor vehicle that has been stolen or damaged beyond repair and for which the staff member received:
 - (A) a concession under section 10B of the Act; or
 - (B) an exemption from indirect tax under subsection 8 (1A) of the Act; and
- (e) an acquisition for the personal use of a member of the administrative and technical staff of a mission covered by this Determination (except an acquisition of a locally-manufactured motor vehicle) is covered by this Determination only if Schedule 1 states that the acquisition is covered for that use.

7 Uses covered by this Determination

- (1) For subparagraph 10B (1) (b) (ii) of the Act, in relation to an acquisition of a kind mentioned in subparagraph 6 (1) (a) (i) or (vi) or paragraph 6 (1) (b), personal use by a person covered by this Determination is a use covered by this Determination.

Note Under subsection 10B (1) of the Act, a payment under the indirect tax concession scheme must be made for an acquisition, other than an acquisition of a kind mentioned in subparagraph 6 (1) (a) (i) or (vi) or paragraph 6 (1) (b), only if, at the time of the acquisition, the acquisition was intended for the official use of the mission.

- (2) However, personal use of an acquisition mentioned in subsection (1) by a person covered by this Determination is covered by this Determination only if:
- (a) the person is not:
 - (i) an Australian citizen; or
 - (ii) ordinarily resident in Australia or in an external Territory; or
 - (b) Schedule 1 states that the acquisition is covered for the personal use of the person.

8 Conditions

- (1) For paragraph 10B (3) (a) of the Act, the amount mentioned in subsection 10B (1) of the Act is payable only if the following conditions are satisfied:
- (a) the person who made the acquisition is subject to an agreement in writing between the head of the mission and the Commonwealth to repay to the Commonwealth the amount worked out in subsection (2) if:
 - (i) for a payment in relation to an acquisition of a motor vehicle — the person disposes of the motor vehicle (except to another person entitled to the same privileges and immunities under this Determination) in Australia or an external Territory within 3 years after it was acquired; or
 - (ii) for a payment in relation to an acquisition of goods other than a motor vehicle — the person disposes of the goods (except to another person entitled to the same privileges and immunities under this Determination) in Australia or an external Territory within 2 years after they were acquired; or
 - (iii) for a payment in relation to any other acquisition (except an acquisition covered by paragraph 6 (1) (c)) — the person assigns the benefits acquired to another person (except another person entitled to the same privileges and immunities under this Determination) in Australia or an external Territory;

- (b) if the person who made the acquisition has breached a previous agreement under paragraph (a) — the person complies with any written requirements, including a requirement to give security, that the Minister considers necessary to ensure the person complies with the agreement.
 - (2) For paragraph (1) (a), the amount to be repaid is:
 - (a) for an acquisition to which subparagraph (1) (a) (i) or (ii) applies — the proportion of the amount paid under section 10B of the Act for the acquisition that is equal to the proportion of the period mentioned in that subparagraph remaining after the person disposes of the goods; and
 - (b) for an acquisition to which subparagraph (1) (a) (iii) applies — the amount paid under section 10B of the Act for the acquisition.
 - (3) A claim for the amount to be paid under section 10B of the Act:
 - (a) must be signed by or on behalf of the head of the mission; and
 - (b) must be sent with the tax invoice for the acquisition; and
 - (c) must be sent:
 - (i) for acquisition of a motor vehicle — to the Protocol Branch of the Department of Foreign Affairs and Trade; or
 - (ii) in any other case — to the Australian Taxation Office; and
 - (d) for acquisition of a motor vehicle or an acquisition of real property by lease — may be sent at any time after the acquisition; and
 - (e) for an acquisition of a kind mentioned in paragraph 6 (1) (c), except an acquisition of real property by lease — may only be sent:
 - (i) in accordance with the arrangement mentioned in that paragraph; or
 - (ii) if the arrangement does not specify a time when a claim may be sent:
 - (A) with another claim; or
 - (B) at least 3 months after another claim from the mission is sent; and
 - (f) for an acquisition that is not mentioned in paragraph (d) or (e) — may only be sent:
 - (i) with another claim; or
 - (ii) at least 3 months after another claim from the mission is sent.
- Note 1* Paragraphs 8 (3) (e) and (f) are intended to limit the number of claims from each mission to one in each quarter, to minimise delays in the processing of claims.
- Note 2* A claim must be in an approved form, see subsections 3 (1) and 10B (2) of the Act, and section 995-1 of the *Income Tax Assessment Act 1997*.
- (4) The amount mentioned in section 10B of the Act is not payable for an acquisition by a person if:
 - (a) an amount was payable for a similar acquisition; and

- (b) the Minister tells the person in writing that, in his or her opinion, the mission's, or the person's, reasonable needs were met by that acquisition.

9 Manner of payment

For paragraph 10B (3) (b) of the Act, the amount is to be paid to a single recipient or account nominated by the head of the mission.

10 Delegation

- (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Minister, delegate to a person, the Minister's powers under paragraphs 8 (1) (b) and (4) (b) of this Determination.
- (2) A power delegated under subsection (1), when exercised by the delegate, is taken to have been exercised by the Minister.
- (3) A delegation of power under subsection (1) does not prevent the exercise of the power by the Minister.

Schedule 1 Details of scheme

(section 4 and subsections 6 (2) and 7 (2))

Note This Schedule lists the countries whose diplomatic missions are covered by the Determination. The Schedule also lists any exceptions to the standard package of concessions stated in sections 6 and 7 of the Determination.

Item	Country	Person and use	Limitation
1	Argentina	A member, or a family member of a member, of the administrative and technical staff, for personal use	As for diplomatic staff, except that acquisition of a motor vehicle for personal use is covered only if: <ul style="list-style-type: none"> (a) the acquisition is made within 6 months of the staff member's installation in Australia; and (b) no family member has received: <ul style="list-style-type: none"> (i) a concession under section 10B of the Act for the acquisition of another motor vehicle; or (ii) an exemption from indirect tax under subsection 8 (1A) of the Act on the importation of a motor vehicle
3	Bangladesh	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
4	Belgium	<i>Note</i> There are no exceptions to the	standard package of concessions for this country
5	Bosnia and Herzegovina	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
6	Brazil	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act

Item	Country	Person and use	Limitation
7	Brunei Darussalam	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
8	Cambodia	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
9	Canada	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
10	Chile	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
11	China	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
12	Colombia	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
13	Croatia	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
15	Czech Republic	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
16	Denmark	A member, or a family member of a member, of the administrative and technical staff, for personal use	As for diplomatic staff, except that acquisition of a motor vehicle for personal use is covered only if: (a) the acquisition is made within 6 months of the staff member's installation in Australia; and

Item	Country	Person and use	Limitation
			(b) no family member has received: (i) a concession under section 10B of the Act for the acquisition of another motor vehicle; or (ii) an exemption from indirect tax under subsection 8 (1A) of the Act on the importation of a motor vehicle
17	Ecuador	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
18	Egypt	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
19	European Union	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
20	Fiji	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
21	Finland	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
22	France		
22.1		Any person, for the official use of the mission	The concession is limited to furniture, furnishings, household appliances and office equipment for official premises (including the head of mission's residence), telecommunications, real property leases, electricity and gas, removal costs for the head of the mission, locally-manufactured motor vehicles and other goods that are freed from duties of excise by section 9 of the Act

Item	Country	Person and use	Limitation
22.2		A member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
25	Holy See	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
26	Hungary	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
29	Iran	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
30	Iraq	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
31	Ireland	A member, or a family member of a member, of the administrative and technical staff, for personal use	As for diplomatic staff, except that acquisition of a motor vehicle for personal use is covered only if: <ul style="list-style-type: none"> (a) the acquisition is made within 6 months of the staff member's installation in Australia; and (b) no family member has received: <ul style="list-style-type: none"> (i) a concession under section 10B of the Act for the acquisition of another motor vehicle; or (ii) an exemption from indirect tax under subsection 8 (1A) of the Act on the importation of a motor vehicle
32	Israel	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act

Item	Country	Person and use	Limitation
35	Jordan	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
36	Kenya	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
37	Korea	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
38	Kuwait	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
39	Laos	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
41	Malaysia	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
42	Malta	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
43	Mauritius		
43.1		Any person, for the official use of the mission	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act, telecommunications, electricity or gas
43.2		A member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
44	Mexico	<i>Note</i> There are no exceptions to the standard package of concessions for this country	

Item	Country	Person and use	Limitation
45	Myanmar	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
46	Netherlands	A member or a family member of a member, of the administrative and technical staff, for personal use	<p>As for diplomatic staff, except that acquisition of a motor vehicle for personal use is covered only if:</p> <p>(a) the acquisition is made within 6 months of the staff member's installation in Australia; and</p> <p>(b) no family member has received:</p> <p>(i) a concession under section 10B of the Act for the acquisition of another motor vehicle; or</p> <p>(ii) an exemption from indirect tax under subsection 8 (1A) of the Act on the importation of a motor vehicle</p>
47	New Zealand	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
48	Nigeria	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
49	Norway	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
50	Pakistan	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act

Item	Country	Person and use	Limitation
51	Papua New Guinea	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
52	Peru	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
53	Philippines	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
54	Poland	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
55	Portugal	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
56	Romania	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
58	Samoa	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
59	Saudi Arabia	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
60	Singapore	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
61	Slovakia	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
62	Slovenia	<i>Note</i> There are no exceptions to the standard package of concessions for this country	

Item	Country	Person and use	Limitation
63	Solomon Islands	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
66	Sri Lanka	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
67	Sweden	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
68	Switzerland	<i>Note</i> There are no exceptions to the standard package of concessions for this country	
70	Turkey	A member, or a family member of a member, of the administrative and technical staff, for personal use	<p>As for diplomatic staff, except that acquisition of a motor vehicle for personal use is covered only if:</p> <ul style="list-style-type: none"> (a) the acquisition is made within 6 months of the staff member's installation in Australia; and (b) no family member has received: <ul style="list-style-type: none"> (i) a concession under section 10B of the Act for the acquisition of another motor vehicle; or (ii) an exemption from indirect tax under subsection 8 (1A) of the Act on the importation of a motor vehicle
71	United Arab Emirates	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
72	United Kingdom	A member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act

Item	Country	Person and use	Limitation
73	United States	A member, or a family member of a member, of the administrative and technical staff, for personal use	As for diplomatic staff, except that acquisition of a motor vehicle for personal use is covered only if: <ul style="list-style-type: none"> (a) the acquisition is made within 6 months of the staff member's installation in Australia; and (b) no family member has received: <ul style="list-style-type: none"> (i) a concession under section 10B of the Act for the acquisition of another motor vehicle; or (ii) an exemption from indirect tax under subsection 8 (1A) of the Act on the importation of a motor vehicle
74	Uruguay	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
75	Venezuela	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
76	Vietnam		
76.1		Any person, for the official use of the mission	The concession is limited to locally-manufactured motor vehicles, goods that are freed from duties of excise by section 9 of the Act, telecommunications, electricity and gas
76.2		A member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act

Item	Country	Person and use	Limitation
77	Federal Republic of Yugoslavia	Any person, for the official use of the mission, or a member of the diplomatic staff, for personal use	The concession is limited to locally-manufactured motor vehicles and goods that are freed from duties of excise by section 9 of the Act
