

EXPLANATORY STATEMENT

Consular Privileges and Immunities (Indirect Tax Concession Scheme) Amendment Determination 2009 (No. 1)

Issued by the Authority of the Minister for Foreign Affairs

Subject: Consular Privileges and Immunities Act 1972

Consular Privileges and Immunities (Indirect Tax Concession Scheme)
Amendment Determination 2009 (No. 1)

Section 10A of the *Consular Privileges and Immunities Act 1972* provides that the Minister may make Determinations to provide the Commissioner of Taxation to pay the head of the consular post (or a person in a class of persons determined by the Minister) an amount equal to the amount of indirect tax payable (if any) in respect of the supply of that acquisition.

The purpose of the Determination is to amend the *Consular Privileges and Immunities (Indirect Tax Concession Scheme) Determination 2000* to create new and amend existing Indirect Tax Concession Scheme (ITCS) packages which provide tax concessions to consular posts and accredited staff. The effect of the Determination is to update the schedule of countries by amending existing entries and adding new entries that detail the ITCS package available to particular countries.

Consular Posts and accredited staff are exempt from paying direct taxes under the Vienna Convention on Consular Relations (Articles 32 and 49). In line with international practice, tax concessions on indirect taxes are also extended to consular posts and accredited staff. In Australia, indirect tax concessions are provided under the ITCS. Individual packages are negotiated with each country, and the level of concessions provided is broadly based on reciprocity.

Commencement dates for individual packages form part of the negotiations for tax concessions. In some cases the commencement date reflects the date at which the agreement was reached. In other cases the commencement date allows access to concessions for purchases of goods and services already made, including by our overseas missions, where we can see there is a clear benefit to Australia. As these packages are usually agreed before they come into force under Australian legislation, they need to be made retrospective.

The amendments are beneficial to Australia. In determining the scope of the economic benefit to Australia, in 1999 the then Assistant Treasurer Rod Kemp advised that the estimated net benefit to Australia in pursuing reciprocal agreements under the GST would be several million dollars, and that the most practical means of assessing the financial benefit to Australia would be to take a global approach, rather than an approach based on individual agreements. The Assistant Treasurer has agreed, in advice dated 29 August 2008 to the Minister for Foreign Affairs, that the amendments made under this Determination will have a negligible impact on revenue. In addition, the provision of tax concessions encourages consular posts and accredited staff to purchase goods in Australia rather than directly importing them, which further assists the Australian economy.

The Indirect Tax Concession Scheme has no impact on business operations, because the Scheme provides for missions and individuals to claim refunds on eligible purchases directly from the Australian Tax Office. The Scheme does not provide for an exemption from indirect taxes and therefore does not pose any additional burden on retailers.

The Amendment Determination does not alter the way the Indirect Tax Concession Scheme works, but extends or retracts tax concessions to specific consular missions. The Amendment Determination was therefore judged to be of a minor nature where consultation is unnecessary under the *Legislative Instruments Act 2003*.

The Office of Best Practice Regulation agreed that the Amendment Determination was not likely to affect business or competition and advised there was no need to prepare a Regulation Impact Statement for the Amendment Determination.