



A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination 2012

Explanatory Statement

General Outline of Instrument

1. This legislative instrument is made under paragraph 29-75(1)(c) of the *A New Tax System (Goods and Services Tax) Act 1999* ('the GST Act').
2. All legislative references in this explanatory statement are to provisions in the GST Act unless otherwise specified.
3. This legislative instrument aligns the other information requirements (referred to in paragraph 29-75(1)(c)) for adjustment notes (including adjustment notes issued by recipients¹) with the more flexible approach now taken for tax invoices as a result of the legislative amendments².
4. This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Revocation of previous instrument

5. *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination (No. 1) 2000* (F2006B11651) registered on 29 November 2006 commenced on the date the GST Act commenced. That legislative instrument is revoked on the commencement of this legislative instrument, and therefore, does not apply to net amounts for tax periods to which this instrument applies.

Commencement and application

6. This legislative instrument commences on 1 July 2010 and applies in relation to net amounts for tax periods starting on or after 1 July 2010.
7. The retrospective application date of this instrument is favourable to taxpayers as the information requirements under this legislative instrument are more flexible.

¹ Referred to as recipient created adjustment notes.

² The changes to the tax invoice requirements apply in relation to net amounts for tax periods commencing on or after 1 July 2010.

8. Under subsection 12(2) of the *Legislative Instruments Act 2003*, this instrument does not adversely affect the rights or liabilities of any person other than the Commonwealth.

9. As the adjustment note requirements in this legislative instrument are more flexible but not substantively different, taxpayers that abided by the requirements set out in the previous adjustment note legislative instrument³ will not need to make any changes to their software or accounting systems in order to satisfy the adjustment note requirements in this legislative instrument. That is, an adjustment note that satisfied the information requirements of the previous adjustment note legislative instrument will continue to satisfy the information requirements of this legislative instrument.

10. Additionally, the application of the more flexible adjustment note requirements for net amounts for tax periods starting on or after 1 July 2010 aligns with the application of the more flexible tax invoice requirements.

11. This legislative instrument applies to adjustment notes issued by suppliers or their agents and recipient created adjustment notes issued by recipients or their agents.

What is this instrument about:

12. This instrument sets out the additional information requirements, specified under paragraph 29-75(1)(c), that must be satisfied for a document to be an adjustment note under subsection 29-75(1).

What is the effect of this instrument:

13. A document is an adjustment note or a recipient created adjustment note if it satisfies the information requirements of subsection 29-75(1) and the other information requirements set out in this legislative instrument. The information requirements in this legislative instrument are more flexible compared to the information requirements specified in the previous adjustment note legislative instrument, and are aligned with the more flexible information requirements for tax invoices that resulted from the legislative amendments.

Clearly ascertained

14. Consistent with the changes made to the tax invoice requirements, a taxpayer will satisfy the adjustment note requirements if the information prescribed in the legislative instrument is able to be clearly ascertained from the document. This means that provided the information can be found in the document, or determined from information within the document, it does not matter that it is not specifically stated or in a particular format. This also means that it must be clear what the information represents.

15. For example, an adjustment event occurs with respect to a supply of goods. The price (i.e. including GST) for the goods was \$6,600 and is now \$5,500. The adjustment note shows the difference in the GST exclusive price as -\$1,000, and the difference in the GST inclusive price of the taxable supply as -\$1,100. Although the amount of the adjustment to the GST payable is not shown (i.e. -\$100), paragraph 5(1)(f) of the legislative instrument is satisfied as, from the information included in the document, the amount of the adjustment to the GST payable can be clearly ascertained.

³ *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination (No. 1) 2000* (F2006B11651).

16. One piece of information on a document may satisfy more than one requirement. For example, a supply of goods of \$5,000 is treated as GST-free on the basis that the goods are to be exported. Subsequently, goods to the value of \$3,000 are actually exported, while goods to the value of \$2,000 are redirected to a branch in Australia. There is an adjustment event as, to the extent that goods remain in Australia, that part of the supply becomes taxable.

17. Therefore, the price of the goods remaining in Australia is \$2,200 (including \$200 GST). The difference in price so far as the supply becomes taxable is \$200, and the amount of the adjustment to the GST payable is \$200. Paragraphs 5(1)(f) and (g) of the legislative instrument would both be satisfied if the document included a statement to the effect that the price and the amount of the adjustment to the GST payable has increased by \$200.

18. Consistent with the approach taken for tax invoices, information that can only be determined by reference to another external source or another document is not information that can be clearly ascertained from the document.⁴

Document intended as an adjustment note and the effect of the adjustment

19. The most direct way of satisfying that a document is intended as an adjustment note is to include the words 'Adjustment Note'. However, there are alternatives that would similarly make it clear that the document is intended as an adjustment note, for example, including the words 'GST Adjustment' or 'Tax Invoice Adjustment'. A statement in the document could also make it clear.

20. It must also be clear from the document what the effect of the adjustment is. This can be shown in a number of different ways. For example, making it clear if the adjustment is a debit or credit amount to the supplier or the recipient or a positive or negative amount to the supplier or the recipient.

21. This in turn makes it clear for the recipient whether they have an increasing or decreasing adjustment (i.e. whether they have claimed too many, or too few, input tax credits in a previous tax period); or the supplier in the case of a recipient created adjustment note (i.e. whether they have paid too much or too little GST in a previous tax period).

22. Consistent with the previous adjustment note legislative instrument, the requirement is satisfied if the document shows the words 'Tax Invoice' or 'Adjustment Note' and the adjustment to the price is shown as a negative or credit amount to the recipient.

The identity of the supplier or recipient

23. To satisfy this requirement, the document would need to include enough information to enable the identity of the supplier and the recipient, where applicable, to be clearly ascertained from the document. Information sufficient to identify the supplier or the recipient includes, but is not limited to, the legal name of the entity; the business name; or the trading name.

24. However, if an adjustment occurs while the recipient is a member of a GST group, a document is taken to be an adjustment note if it contains enough information to determine the identity of the recipient's GST group, the representative member or another

⁴ In these circumstances, the recipient may be able to treat the document as an adjustment note. See paragraphs 36 to 38 of this Explanatory Statement for further explanation.

member of the recipient's GST group, and would otherwise be an adjustment note if it contained information from which the recipient's identity or ABN could be determined.⁵

25. This concession only applies while a recipient is a member of the GST group and the representative member of the GST group would have the adjustment under subsection 48-50(1). If the document identifies another entity from the GST group, the concession also only applies if the representative member would have the adjustment under subsection 48-50(1). This ensures that the entity identified on the adjustment note is a member of the GST group at the relevant time.

The difference in the price of the supply

26. It is a requirement that the difference in the price of the supply is either shown or able to be clearly ascertained from the document. As explained above at paragraph 14, clearly ascertained means that it is sufficient that the amount can be worked out from the information included in the document.

27. Examples of how this requirement may be satisfied are explained at paragraphs 15 to 17 above.

For partly taxable supplies, the difference in price refers to that part of the supply that is, or becomes, taxable

28. Paragraph 5(1)(g) of the legislative instrument requires that the difference in the price (i.e. including any GST) before and after the adjustment event be clearly ascertainable from the document. If a supply is not a wholly taxable supply before and after the adjustment event, the difference in price is referable to that part of the supply which is affected by the adjustment event and that is taxable at the time of the adjustment event or becomes taxable in relation to that adjustment event.

29. Referring to the example at paragraphs 16 and 17, the difference in the price of the supply refers to that part of the supply that was not taxable (i.e. \$2,000) and that subsequently becomes taxable (i.e. \$2,200). The difference in the price is \$200 and the amount of the adjustment to the GST payable is also \$200. In this case, the one amount can satisfy the requirements at paragraphs 5(1)(f) and (g) of the legislative instrument, as long as it is made clear in the document what the amount represents.

30. If a supply is wholly taxable (e.g. \$5,500 including GST of \$500) and part of the supply stops being taxable as the goods are exported (e.g. goods to the value of \$2,000), the difference in the price of the supply refers to that part of the supply that is taxable prior to the adjustment event. The difference in the price is therefore -\$200 (i.e. \$2,200 - \$2,000) and the amount of the adjustment to the GST payable is also -\$200. In this case, the one amount (i.e. -\$200) can satisfy both requirements at paragraphs 5(1)(f) and (g), as long as it is made clear in the document what the amount represents.

31. If a supply is partly taxable (e.g. \$4,400 including \$400 GST) and partly GST-free (e.g. \$1,000) and a 40% reduction in price applies only to the taxable part of the supply, then the difference in price before and after the adjustment event refers to that taxable part. That is, the price before the adjustment event is \$4,400 (including \$400 GST) and the price after is \$2,640 (including \$240 GST), resulting in a difference in price of \$1,760.

32. In this case, the document could show any two of the following three amounts and satisfy both requirements at paragraphs 5(1)(f) and (g), as long as it is made clear in the document what the amount represents:

⁵ This concession does not apply to recipient created adjustment notes. A recipient issuing a recipient created adjustment note must include their identity on the document.

- Amount of the adjustment to the GST payable -\$160
- Difference in the GST exclusive price -\$1,600
- Difference in the GST inclusive price -\$1,760

Statement as an alternative

33. If the amount of the GST payable is 1/11th of the price, a statement can be included as an alternative to the requirement at paragraph 5(1)(f) or 5(2)(f) of the legislative instrument. The statement must make it clear that the difference in the price of the supply includes GST. This is similar to the statement as an alternative allowed under the previous adjustment note legislative instrument.⁶

34. Previously an adjustment note, relating to a supply of insurance where the GST payable was less than 1/11th of the price, was required to include the difference in the GST exclusive price of the supply or alternatively a statement (as set out in clause 3(k)(ii)(B) of the previous adjustment note legislative instrument). This followed the tax invoice requirement to include the GST exclusive price of the supply or an alternative statement on the tax invoice.

35. Due to the tax invoice legislative amendments, this requirement is no longer necessary for tax invoices. Similarly, it is no longer necessary to show the difference in the GST exclusive price of a supply on an adjustment note where the GST payable was less than 1/11th of the price. As a result, the statement as an alternative to showing that amount for supplies of insurance has not been included in the legislative instrument.

Concessional treatment

36. A document issued by a supplier to a recipient may be treated by the recipient as an adjustment note for the purposes of the GST Act if:

- (a) it would comply with the requirements for an adjustment note but for the fact that it does not contain certain information; and
- (b) all of that information can be clearly ascertained from other documents given by the supplier to the recipient.

37. Similarly, a document issued by the recipient (in the case of an adjustment note issued by the recipient) that does not meet all of the adjustment note requirements may be treated by the supplier as an adjustment note if:

- (a) it would be an adjustment note issued by the recipient but for the fact that it does not contain certain information; and
- (b) all of that information can be clearly ascertained from other documents given to the supplier by the recipient.

38. However, a recipient cannot treat a document issued by the recipient that does not meet the adjustment note requirements as an adjustment note by relying on other documents. In this case, whether the document meets all of the adjustment note requirements is within the control of the recipient as the issuer and the recipient bears the responsibility for ensuring that a document is issued that meets the necessary requirements.

⁶ See clause 3(h) of *A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination (No. 1) 2000* (F2006B11651).

Background:

39. Where taxpayers make or receive taxable supplies, subsequent events may mean that they paid too much or too little GST, or claimed too many or too few input tax credits, in a previous tax period. In these cases, they may need to make GST adjustments.

40. Generally, when a taxpayer has a decreasing adjustment from an adjustment event, the taxpayer cannot claim an adjustment in their Activity Statement until they hold an adjustment note. An adjustment note is a document that meets the requirements in subsection 29-75(1), including any other information requirements as the Commissioner determines in writing under paragraph 29-75(1)(c).

41. Closely related to the adjustment note requirements are the tax invoice requirements.

42. The Board of Taxation Review of the legal framework for the administration of the GST recommended relaxing what were considered to be overly prescriptive requirements for the contents of tax invoices and recipient created tax invoices.

43. Schedule 3 of the *Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010* amended the requirements for a document to be a tax invoice, replacing the previous prescriptive list with more flexible principles.

44. This legislative instrument similarly replaces the previous information requirements for adjustment notes and recipient created adjustment notes with more flexible principles.

Costing:

45. Compliance cost impact: No change/low – minor or machinery in nature. An assessment of the compliance cost impact indicates that the impact will be minor for both implementation and on-going compliance costs. The new instrument is of a minor or machinery nature.

Consultation

46. Section 18 of the *Legislative Instruments Act 2003* specifically provides for circumstances where consultation may not be necessary or appropriate. One of those circumstances is where the instrument is considered minor or machinery in nature, and does not substantially change the law.

47. Although the instrument was considered minor or machinery in nature, and does not substantially change the law, limited consultation was carried out to the following extent:

- A draft of the instrument was placed on the ATO website (ato.gov.au) inviting feedback;
- Feedback was invited from the Financial Services Industry Partnership (an industry forum) in view of certain insurance-specific clauses which were not included in the new instrument; and
- Feedback was invited from the National Tax Liaison Group GST Subcommittee.

Statement of Compatibility with Human Rights

48. This legislative instrument does not engage any of the applicable rights or freedoms. It is compatible with human rights as it does not raise any human rights issues.

James O'Halloran
Deputy Commissioner of Taxation
29 March 2012

Legislative references:

A New Tax System (Goods and Services Tax) Act 1999

29-75(1)

29-75(1)(c)

48-57(1)

Legislative Instruments Act 2003

12(2)

18

Tax Laws Amendment (2010 GST Administration Measures No. 2) Act 2010

Other references:

A New Tax System (Goods and Services Tax) Adjustment Note Information Requirements Determination (No. 1) 2000 (F2006B11651) registered on 29 November 2006

Tax Office references

NO:

ISSN: