Explanatory Statement

Goods and Services Tax: Particular Attribution Rules for Banknote and Coin-operated Machines and Similar Devices Determination 2017

## General outline of determination

## This determination is made under subsection 29-25(1) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).

## Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

## This determination specifies the particular attribution rule for GST payable on a taxable supply made through a banknote or coin-operated machine or similar device before the supplier becomes aware of the supply.

## This determination is a legislative instrument for the purposes of the *Legislation Act 2003.*

## Date of effect

* 1. This determination will commence retrospectively on 1 April 2017. This is to allow for reasonable and appropriate consultation to be completed.
	2. Subsection 12(2) of the *Legislation Act 2003* allows a retrospective application date for a legislative instrument. This determination aims to reduce compliance costs.  A commencement date after 1 April 2017 would create unexpected compliance obligations for the intervening period. To provide certainty to taxpayers who have relied upon the previous determination and continue to rely on this determination and protect the rights of all affected taxpayers the retrospective application date is reasonable and appropriate. The retrospective application date will not adversely affect the rights of any person and will not impose a liability on any person for any act or omission before this instrument’s registration date.

## What is the determination about?

* 1. Section 29-5 of the GST Act provides for when a supplier must attribute the GST payable on a taxable supply.
	2. The purpose of this determination is to specify the particular attribution rule for GST payable on a taxable supply that is made before the supplier becomes aware of the supply.
	3. In accordance with this determination:
1. The GST payable by an entity that makes a taxable supply where:
2. the consideration is received through a banknote-operated machine, a coin‑operated machine or similar device, and
3. removal of the notes and coins from the machine is the
only way of knowing when the consideration is received

is attributable to the tax period in which the consideration is removed from the machine or similar device.
4. This rule applies regardless of whether the supplier accounts for GST on a cash basis.

## What is the effect of this determination?

* 1. This determination applies where a supplier does not know when a taxable supply made through a banknote-operated machine, coin-operated machine or similar device has actually occurred. In such instances, the supplier is required to attribute the GST payable on the taxable supply to the tax period in which the consideration is removed from the machine or device.
	2. This determination overcomes practical difficulties of determining when the GST payable is attributable where a taxable supply is made through a banknote-operated machine, a coin-operated machine or similar device.
	3. This determination is substantially the same as the previous determination that it replaces. An entity that satisfied the requirements of the previous determination will satisfy the requirements of this determination.
	4. Compliance cost impact:  Minor – there will be no or minimal impact for both implementation and ongoing compliance costs. This determination is minor or machinery in nature.

## Background

* 1. This determination replaces *A New Tax System (Goods and Services Tax) Act 1999:* (Particular Attribution Rules for Banknote and Coin-operated Machines and Similar Devices) Determination (No 1) 2000 –F2006B11603, (previous determination) registered on 20 November 2006. The previous determination is repealed from 1 April 2017.

## Consultation

## Subsection 17(1) of the *Legislation Act* *2003* requires, before the making of a determination, that the rule-maker is satisfied that appropriate and reasonably practicable consultation has been undertaken.

## Broad consultation has been undertaken. The draft determination and draft explanatory statement were published on the ATO Legal database at ato.gov.au seeking feedback and comments for a period of two weeks. Notice of the draft determination was also published to ato.gov.au and subscription alerts issued. Tax professionals and tax associations regularly review both the Legal database and ato.gov.au and further promulgate advice of new drafts issued in their internal news bulletins. The major legal publishers also publish news of the drafts in their key tax alerting services - such as the Weekly Tax Bulletin (published by Thomson Reuters Australia) and Tax Tracker and Tax Week (published by CCH Australia).  Additionally, draft determinations and draft explanatory statements have been published on the ATO Consultation Hub.  Links to these drafts were published in newsletters such as the Taxation News (Chartered Accountants Australia and New Zealand) weekly bulletin. No comments have been received to date.

**Legislative references:**

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

*Acts Interpretation Act 1901*

*Legislation Act 2003*

*Human Rights (Parliamentary Scrutiny) Act 2011*

### Statement of compatibility with Human Rights This statement is prepared in accordance with *Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

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This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011.*

**Overview of the /Legislative Instrument**

Section 29-5 of the *A New Tax System (Goods and Services Tax) Act 1999* provides for when a supplier must attribute the GST payable on a taxable supply. This legislative instrument allows you to attribute the GST payable on a supply where you receive the consideration through a banknote-operated machine, a coin-operated machine or similar device and removal of the notes and coins from the machine is the only way you have of knowing when the consideration is received. This will simplify the attribution rules involving a supply or acquisition occurring before the supplier or recipient knows it has occurred.

**Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms. It provides rules for when a supplier must attribute the GST payable on a taxable supply.

**Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.