



A New Tax System (Goods and Services Tax) (Incidental Valuable Metal Goods) Determination 2017 (No. 1)

I, KELLY O'DWYER, Minister for Revenue and Financial Services, make this determination under subparagraph (c)(iii) of the definition of *incidental valuable metal goods* in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Dated 16 October 2017

Kelly O'DWYER
Minister for Revenue and Financial Services

1 Name

This determination is the *A New Tax System (Goods and Services Tax) (Incidental Valuable Metal Goods) Determination 2017 (No. 1)*.

2 Commencement

This determination commences on the day after it is registered.

3 Authority

This instrument is made under subparagraph (c)(iii) of the definition of ***incidental valuable metal goods*** in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

4 Definitions

In this Determination:

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

Note: The following expressions used in this instrument are defined in section 195-1 of the Act:

- (a) registered;
- (b) valuable metal;
- (c) Australian consumer;
- (d) incidental valuable metal goods;
- (e) Commissioner;
- (f) business;
- (g) taxable supply;
- (h) creditable acquisition; and
- (i) second-hand goods.

5 Purpose of Determination

The purpose of this Determination is to determine a class of goods that are incidental valuable metal goods for the purposes of the definition of ***incidental valuable metal goods*** in section 195-1 of the Act.

6 Class of goods determined to be incidental valuable metal goods

- (1) This section determines, for the purposes of subparagraph (c)(iii) of the definition of **incidental valuable metal goods** in section 195-1 of the Act, a class of goods that consists of items, each of which meets these conditions:
- (a) an entity (the **dealer**) acquires the item, from an entity that is not registered, for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business;
 - (b) the item consists wholly or partly of valuable metal;
 - (c) the physical characteristics of the valuable metal in the item have been substantially transformed by means of a manufacturing process, or by skilled craftsmanship, that was undertaken to produce the item;
 - (d) the item is commercially distinct from the valuable metal in it;
 - (e) the dealer supplies the item to an Australian consumer;
 - (f) at the time of the supply to the Australian consumer, the dealer holds a date-stamped photograph of the item, which allows the physical characteristics of the item to be clearly identified at that time;
 - (g) throughout the period starting when the dealer acquires the item and ending when the dealer supplies the item to the Australian consumer, the dealer:
 - (i) is registered; and
 - (ii) is licensed as a second-hand goods dealer in every State or Territory in Australia in which the supplier carries on a business of dealing in second-hand goods; and
 - (iii) satisfies the record keeping obligations under subsections 29-10(3) and 29-20(3) of the Act, as modified by section 66-17 of the Act to the extent the entity is required to comply with those obligations.

Note: Section 66-17 of the Act modifies the effect of subsections 29-10(3) (which is about records relating to attributing the input tax credits for creditable acquisitions) and 29-20(3) (which is about records relating to attributing decreasing adjustments) of the Act if an entity makes a creditable acquisition of second-hand goods and the supply of the goods to the entity was not a taxable supply.

Example: XYZ Pty Ltd is a licensed second-hand goods dealer that operates in Tasmania and is registered for GST. The company purchases an 18 carat gold 55 cm necklace that is in original condition from Eloise who is not registered for GST. At the time of purchase of the necklace, XYZ Pty Ltd takes several digital photographs of the necklace. The photographs are date-stamped, as the date each photograph was taken can be identified from each photograph's metadata. A week later XYZ Pty Ltd sells the necklace to Teresa who is an Australian resident and is not registered for GST.

XYZ Pty Ltd retains these photographs and also records the purchase and sale of the necklace as evidence. XYZ Pty Ltd ensures that it keeps records including:

- the name, address and GST registration status of the seller of the necklace, Eloise;
- the GST registration status and residency status of the purchaser of the necklace, Teresa; and
- a description of and quantity of the goods.

XYZ Pty Ltd has good record keeping practices and retains all necessary records of its dealings in second-hand goods, including the date of and consideration for all acquisitions of second-hand goods.

The necklace satisfies the definition of incidental valuable metal goods because:

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- XYZ Pty Ltd has acquired the necklace from an unregistered entity (Eloise) for the purposes of sale or exchange (but not for manufacture) in the ordinary course of business; and
 - the necklace consists of valuable metal (as it is made of 18 carat gold); and
 - the 18 carat gold has been substantially transformed by a manufactured process and skilled craftsmanship to produce the necklace and is commercially distinct from a quantity of 18 carat gold as the necklace in its current condition would be expected to be sold as a necklace rather than as a quantity of gold; and
 - the purchaser of the necklace is an Australian consumer for the purposes of the GST law; and
 - XYZ Pty Ltd keeps a detailed date-stamped photograph of the necklace which allows its physical characteristics to be identified clearly at the time of supply to Teresa; and
 - throughout the relevant period, XYZ Pty Ltd satisfies the requirements in paragraph 6(1)(g) of this Determination.

XYZ Pty Ltd satisfies the requirements in paragraph 6(1)(g) of this Determination as the company:

- is registered for GST; and
- is licensed as a second-hand goods dealer in the States and Territories in which it operates – that is Tasmania; and
- satisfies the record keeping obligations under subsections 29-10(3) and 29-20(3) of the Act, as modified by section 66-17 of the Act for all second-hand goods that it buys and sells.