Explanatory Statement

Goods and Services Tax: Waiver of Adjustment Note Requirement (Corporate Card Statements) Determination 2020

## General Outline of Instrument

1. This determination is made under subsection 29-20(3) of the *A New Tax System (Goods and Services Tax) Act 1999.*
2. This determination allows corporate credit and charge card holders to claim decreasing adjustments without holding an adjustment note in certain circumstances.
3. 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.
4. The determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

## Date of effect

1. The determination is taken to have commenced on the day after it is registered on the Federal Register of Legislation.

**What is this determination about**

1. Under subsection 29-20(3) of the GST Act, you can only attribute a decreasing adjustment arising from an adjustment event in the first tax period when you hold an adjustment note for the adjustment (unless the adjustment is $75 or less).
2. However, the Commissioner may determine in writing the circumstances in which you do not require an adjustment note in order to attribute a decreasing adjustment.
3. This determination waives the requirement to hold an adjustment note for a decreasing adjustment provided that the requirements of the determination are met. Instead a corporate card statement can be used provided it includes the required information.

**What is the effect of this determination**

1. The effect of this determination is to allow taxpayers to claim a decreasing adjustment without holding an adjustment note where they hold a corporate card statement instead. This determination also corrects an unintended consequence of including a reference to the ATO Reference Number of an entity contained in *Goods and Services Tax: Waiver of Adjustment Note Requirement (Corporate Card Statements) Determination 2018*. The change confirms that the determination does not apply if the supplier does not have an ABN. Limited registration entities are allocated a GST registration number that is not an ABN.

**Background**

1. This determination replaces *Goods and Services Tax: Waiver of Adjustment Note Requirement (Corporate Card Statements) Determination 2018* F2018L01352 (previous determination), registered on 27 September 2018. The previous determination is repealed on commencement of this determination.
2. The determination is substantially the same as the previous determination that it replaces. The previous determination defined the term *GST registration number* to mean an Australian Business Number or ATO Reference Number. The inclusion of ATO Reference Number in the definition of GST registration number produced an unintended consequence as it allowed recipients of supplies from limited registration entities to attribute a decreasing adjustment without the need for an adjustment note in circumstances where the supply was incorrectly treated as a taxable supply. For these reasons, the term GST registration number has been removed from this Determination.
3. Compliance cost impact: Minor - There will be minimal impact for both implementation and ongoing compliance costs. The legislative determination is minor and machinery in nature.

**Explanation**

1. Provided the requirements of this determination are met, for the purposes of attributing a decreasing adjustment (arising from an adjustment event in respect of an acquisition) to a tax period, a cardholder is not required (under subsection 29-20(3) of the GST Act) to hold an adjustment note for the decreasing adjustment. In summary, the corporate card statement may be used to claim decreasing adjustments where:

**(a)** the cardholder holds a corporate card statement for the decreasing adjustment that contains the information set out in section 7;

**(b)** the GST related information on the corporate card statement meets the accuracy requirements set out in section 11;

**(c)** the cardholder meets the requirements of section 12 that ensure the cardholders use the statement accurately to claim decreasing adjustments;

**(d)** paragraph 10(b) does not apply. This section requires the cardholder to hold an adjustment note in relation to the decreasing adjustment where the statement shows an estimated adjustment amount; and

**(e)** the card statement issued by the corporate card provider/acquirer meets the information requirements specified in this determination by using either of two methods:

1. the accurate method provided by paragraph 7(2)(b); or
2. the signed statement method provided by paragraph 7(2)(c).
3. For low value decreasing adjustments (currently those that do not exceed $75 in value) there is no requirement to hold an adjustment note. Therefore, this determination is not applicable to low value decreasing adjustments.

*Definition of corporate card provider*

1. The definition of corporate card provider (in section 6) requires the corporate card provider issuing the statement to be named in this determination. If a card provider is named, it is not compulsory for the corporate card provider to offer card products that meet these requirements.
2. Cardholders should verify that their corporate card statement is intended to meet the requirements.

**Consultation**

1. Subsection 17(1) of the *Legislation Act 2003* requires, before the making of a determination, that the Commissioner is satisfied that appropriate and reasonably practicable consultation has been undertaken.
2. For this determination, broad consultation was undertaken for a period of 2 weeks commencing on 1 November 2019.
3. The draft determination and draft explanatory statement were published on the ATO Legal database. Publication was advertised via the ‘What’s new’ page on that system and via the ‘Open Consultation’ page on **ato.gov.au**.  Major tax and superannuation publishers and associations monitor these pages and include the details in the daily and weekly Alerts and newsletters to their subscribers and members. This ensures advice of the draft is disseminated widely across the tax professional community, and that they are in an informed position to provide comments and feedback.
4. Targeted consultation was also undertaken for a period of 2 weeks.  Copies of the draft legislative determination and explanatory statement were sent to the corporate card providers listed in the legislative determination for comment and feedback.

*Outcome of consultation*:

1. No substantive comments were received and no significant changes impacting on the application of the legislative determination have been made.

### Legislative references: *Acts Interpretation Act 1901*

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

*Legislation Act 2003*

### *Human Rights (Parliamentary Scrutiny) Act 2011*

### Statement of compatibility with Human Rights

### 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**

The Legislative Instrument allows corporate card holders to claim a decreasing adjustment without holding an adjustment note in certain circumstances.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms as it allows corporate card holders to claim a decreasing adjustment without holding an adjustment note in certain circumstances.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.