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## Explanatory Statement

# Goods and Services Tax: Waiver of Tax Invoice Requirement (Visa Purchasing Card) Determination 2020

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### General outline of determination

1. This determination is made under subsection 29-10(3) of the *A New Tax System (Goods and Services Tax) Act 1999*.
2. This determination allows Visa Purchasing Card cardholders to claim input tax credits without holding a tax invoice in certain circumstances.
3. The determination is a legislative instrument for the purposes of the *Legislation Act 2003*.
4. 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

### Date of effect

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

### What is this determination about

6. Under subsection 29-10(3) of the GST Act, you can only attribute an input tax credit in the first tax period when you hold a tax invoice for the creditable acquisition (unless the value of the taxable supply to which the creditable acquisition relates is \$75 or less).
7. However, the Commissioner may determine in writing the circumstances in which you do not require a tax invoice for a creditable acquisition.
8. This determination waives the requirement to hold a tax invoice for a creditable acquisition provided that the requirements of the determination are met. Instead electronic data files (called matched data files) can be used provided they include the required information.

### What is the effect of this determination

9. The effect of this determination is to allow entities other than Visa International to match the data that is necessary to produce matched data files which can be used by taxpayers to claim an input tax credit without holding a tax invoice. This determination also corrects an unintended consequence of including a reference to the ATO Reference Number of an entity contained in the previous determination, *Goods and Services Tax Waiver of Tax Invoice*

*Requirement (Visa Purchasing Card) 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

10. This determination replaces *Goods and Services Tax: Waiver of Tax Invoice Requirement (Visa Purchasing Card) Determination 2018* [F2018L01354] (previous determination), registered on 27 September 2018. The previous determination is repealed on commencement of this determination.
11. 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 produces unintended consequences allowing recipients of supplies from limited registration entities to attribute input tax credits without the need for a tax invoice in circumstances where the supply was incorrectly treated as a taxable supply. For these reasons, the term GST registration number has been removed from the definition section in this Determination.
12. 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

13. Provided the requirements of this determination are met, for the purposes of attributing an input tax credit for a creditable acquisition to a tax period, a cardholder is not required (under subsection 29-10(3) of the GST Act) to hold a tax invoice for the creditable acquisition (section 5). In summary, the matched data file can be used to claim input tax credits where:
  - (a) the cardholder holds a matched data file for the creditable acquisition that contains the information set out in section 7;
  - (b) the GST related information on the matched data file meets the accuracy requirements set out in section 12;
  - (c) the cardholder meets the requirements of section 13 that ensure the cardholders use the matched data file accurately to claim input tax credits;
  - (d) section 14 does not apply. This section requires the cardholder to hold a tax invoice in relation to the acquisition if there is an error in relation to the acquisition, or section 8 is not satisfied when required; and
  - (e) when the data matching provider uses information from a cardholder hosted electronic purchasing system, the cardholder data method provided by paragraph 6(2)(b) must be used.

### *Information requirements for a matched data file*

14. Section 7 sets out the transaction information that a matched data file must contain. The information is similar to that required on a tax invoice, with some changes to take into account the information that is readily available to data matching providers.

15. The term matched data file refers to the file produced by the matching of data from the EFTPOS system with the additional GST related information from an electronic purchasing system. The matching is carried out by a data matching provider. The matched data file provides all of the information needed to satisfy the information requirements in paragraph 7(d).

*Accuracy requirements for matched data files*

16. Subsection 12(1) contains a requirement to ensure data matching providers do not place GST related information in a matched data file if they consider the information may be inaccurate. The data matching provider must retain a copy of the matched data file for 5 years.

*Use of cardholder data method required in specified circumstances*

17. Where transaction information for a particular supply is provided to the data matching provider by the cardholder (rather than by the supplier), the cardholder data method must be used. Recipient created tax invoices have been issued in similar situations. As such, many of the requirements that apply to recipient created tax invoices (see for example *Goods and Services Tax: Recipient Created Tax Invoice Determination 2017 for Agricultural Products, Government Related Entities and Large Business Entities* (F2017L00348)) continue to apply for this determination). Some of these similarities include:

- i. The type of cardholder for whom the method is made available (refer to paragraph 8(a)). Qualifying cardholders are government related entities, and entities that have a GST turnover (including input taxed supplies) of at least \$20 million annually; or are entitled to be members of a GST group, or entitled to be a joint venture operator, in which one or more other members of that group or participants in that joint venture have such a GST turnover;
- ii. The cardholder must send a purchase order that includes GST data to the supplier, so that the supplier has a record of the GST data the cardholder is using (subsection 11(1)); and
- iii. The cardholder and the supplier must enter into a written agreement which includes specifying what supplies will be made using this method, and that tax invoices issued in relation to those supplies must be marked to avoid duplicate input tax credit claims (paragraph 11(2)(c)).

18. The method can only be used for transactions arising from an electronic purchasing system (subsection 8(b)).

19. Set out below are the steps that occur when the cardholder data method is used. These steps ensure that the GST data used to produce the matched data file is accurate:

Step 1: The supplier provides details of items available for purchase including GST data and price to the qualifying cardholder (section 8). The supplier or cardholder provides the data matching provider with the supplier's Australian Business Number (ABN) (section 9). This information is entered onto the electronic purchasing system.

Step 2: The cardholder must provide a purchase order to the supplier that contains the information specified in subsection. This ensures that the supplier is aware of how the GST data has been recorded for each transaction.

Step 3: The cardholder-hosted electronic purchasing system transmits the transaction data to the data matching provider (paragraph 11(2)(a)).

Step 4: The data matching provider can now match the data they receive from step 3 with the normal EFTPOS data (received from the supplier's financial institution) and produce the matched data file.

Step 5: The matched data file is issued to the cardholder.

#### *Definition of cardholder and Visa Purchasing Card*

20. The definition of cardholder and Visa Purchasing Card in section 4 covers an entity who requests the corporate card provider to issue a corporate card in another entity's name. This gives effect to section 15 - Reimbursement of Employees etc.

#### **Consultation**

21. 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.
22. For this determination, broad consultation was undertaken for a period of 2 weeks commencing on 1 November 2019.
23. 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](http://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.

#### *Outcome of consultation:*

24. 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*.

### **Goods and Services Tax: Waiver of Tax Invoice Requirement (Visa Purchasing Card) Determination 2020**

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 provides greater flexibility to card providers by allowing specified entities other than Visa International to collate the required GST information that is included in the electronic data files.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms as it provides greater flexibility to card providers by allowing specified entities other than Visa International to collate the required GST information that is included in the electronic data files.

#### **Conclusion**

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