



Explanatory Statement

A New Tax System (Goods and Services Tax) Margin Scheme Valuation Requirements Determination 2020

General Outline of Instrument

1. This instrument is made under subsection 75-35(1) of *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
2. This determination specifies requirements for making valuations for the purposes of the margin scheme under Division 75 of the GST Act.
3. The instrument 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.
5. All legislative references in this explanatory statement are to provisions in the GST Act unless otherwise specified.

Date of effect

6. This instrument commences on the day after it is registered on the Federal Register of Legislation.

What is the effect of this instrument

7. A valuation made in accordance with the requirements specified in this determination is an approved valuation under section 75-35. It may be relied on by suppliers calculating the margin scheme for taxable supplies of real property made on or after 1 March 2010 under paragraph 75-10(3)(b) and where applicable, under section 75-11. It may also be relied on by suppliers calculating an increasing adjustment under section 75-22.
8. The Commissioner may in specified circumstances obtain a valuation that is an approved valuation to calculate the margin for taxable supplies of real property made before, on or after 1 March 2010 under subsection 75-10(3).
9. Compliance cost impact: Minor – There will be minimal impact for both implementation and ongoing compliance costs. The legislative instrument is minor and machinery in nature.

Background

10. Under Division 75 the margin scheme may be applied to work out the GST on certain taxable supplies of real property. The amount of GST on the supply is $1/11^{\text{th}}$ of the margin for the supply.

11. Under subsection 75-10(2), the margin for the supply is the amount by which the consideration for the supply exceeds the consideration for the acquisition of the freehold interest, unit or lease in question.

12. However, subsection 75-10(3) and section 75-11 provide that in certain circumstances the margin for the supply is the amount by which the consideration for the supply exceeds an approved valuation of the relevant freehold interest, stratum unit or long-term lease.

13. For a valuation to be an approved valuation section 75-35 provides that the valuation must comply with the requirements determined in writing by the Commissioner of Taxation (the Commissioner) for making valuations for the purposes of Division 75.

14. This determination specifies requirements for making valuations for the purposes of Division 75. The requirements for making valuations of the kind referred to in this determination as methods 1, 2 and 3 apply to valuations produced by the supplier for the purposes of subsection 75-10(3) and section 75-11. The requirements for valuations referred to in this determination under method 4 apply to valuations obtained by the Commissioner in specified circumstances for the purposes of subsection 75-10(3). This instrument is substantially the same as the instrument that it replaces. Therefore if you have a valuation that satisfied the previous determination, it would continue to satisfy this determination.

Consultation

15. 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.

16. The determination was published in draft on the 25th of February 2020 and provided a two week period for consultation. No comments were received.

Legislative References

Acts Interpretation Act 1901

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

Human Rights (Parliamentary Scrutiny) Act 2011

Legislation Act 2003

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

This disallowable legislative instrument provides the acceptable methods for valuing real property so that the supplier can use the GST Margin Scheme to calculate the amount of GST payable. The Margin Scheme allows a supplier to calculate the GST payable on the margin for the supply rather than the consideration received for the supply. There will generally be less GST payable on a supply if the Margin Scheme is used.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms because it provides property developers with the acceptable real property valuation methods to use in calculating their GST liability.

Conclusion

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