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## Explanatory Statement

# Goods and Services Tax: Waiver of Tax Invoice Requirement (eftpos Interchange Services Reports) Determination 2021

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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* (GST Act).
2. This determination allows a member to claim an input tax credit on a creditable acquisition of eftpos interchange services without holding a tax invoice in certain circumstances.
3. This 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 commences on the day after it is registered on the Federal Register of Legislation.
6. Under section 12(2) of the *Legislation Act 2003*, this determination does not adversely affect the rights or liabilities of any person other than the Commonwealth.

### What is this determination about?

7. The basic attribution rules in subsection 29-10(3) of the GST Act generally require an entity to hold a tax invoice before being able to attribute the input tax credit (or any part of the input tax credit) to a tax period.
8. Subsection 29-10(3) of the GST Act also provides that the requirement to hold a tax invoice does not apply in circumstances of a kind determined in writing by the Commissioner to be circumstances in which the requirement for a tax invoice does not apply.
9. This determination specifies when there is no requirement to hold a tax invoice before being able to attribute input tax credits for a member that acquires eftpos interchange services.

### What is the effect of this determination?

10. The effect of this determination is that a member that satisfies the requirements set out in section 7 of this determination, is not required to hold a tax invoice in order to attribute an input tax credit for the eftpos interchange services recorded on the report.

### Compliance cost assessment

11. Compliance Cost Impact: Minor – there will be minimal impact for both implementation and ongoing compliance costs. The determination is minor or machinery in nature.

## **Background**

12. This determination has been developed to reduce the compliance costs of members of the eftpos payment system.

## **Consultation**

13. 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.

14. For this instrument, public consultation was undertaken for a period of 4 weeks commencing on 5 March 2021.

15. The draft instrument 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.

16. No feedback was received.

## **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 Commissioner determines under subsection 29-10(3) of the *A New Tax System (Goods and Services Tax) Act 1999* that the requirement to hold a tax invoice does not apply in circumstances where a member holds an eftpos interchange services report that satisfies the requirements set out in section 8 of the determination.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms. It allows for a member to attribute an input tax credit for eftpos interchange services without holding a tax invoice in certain circumstances.

#### **Conclusion**

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