



Explanatory Statement

A New Tax System (Goods and Services Tax) (Extension of Time to Issue an Adjustment Note – Electricity Distributors and Public Utility Providers) Determination 2025

General outline of instrument

1. This instrument is made under subsection 29-75(3) of the *A New Tax System (Goods and Services Tax) Act 1999* (the Act).
2. This instrument extends the time in which a public utility provider or an electricity distributor must issue an adjustment note in certain circumstances.
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.

Date of effect

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

Background

6. Subdivision 29-A of the Act sets out which tax periods the GST on taxable supplies and input tax credits for creditable acquisitions and importations are attributable.
7. Later events in subsequent tax periods may change the amount of GST payable or input tax credit entitlement for a supply or acquisition or importation. In order to correct the amount of GST payable or the input tax credit entitlement, an adjustment, either increasing or decreasing, is attributable to the tax period in which the supplier or recipient becomes aware of the adjustment.
8. Section 29-75 outlines the requirements for an adjustment note including when one must be issued. Under paragraph 29-75(2)(b) of the Act, an adjustment note must be issued within 28 days of the supplier becoming aware of an adjustment in circumstances where:
 - (a) a tax invoice for that supply has been issued to, or requested by, the recipient, and
 - (b) the recipient has not requested the supplier issue an adjustment note relating to that supply.
9. However, depending on the supplier's normal business practices, it may be difficult to comply with the requirement to issue an adjustment note within the 28 day timeframe. For example, electricity suppliers may read electricity meters and issue combined tax invoices and adjustments (if required) every 3 months. It would therefore be difficult for these suppliers to issue an adjustment note within 28 days of becoming aware of an adjustment.

10. Subsection 29-75(3) of the Act allows the Commissioner to vary the timeframe in which a supplier must issue an adjustment note under paragraph 29-75(2)(b) of the Act. Where the circumstances determined by the Commissioner are met, the number of days specified in paragraph 29-75(2)(b) of the Act is read as referring to the number of days specified in the instrument.

11. Subsection 29-75(4) of the Act provides that the circumstances referred to in subsection 29-75(3) of the Act may include, for example, the kind of taxable supply.

12. This instrument repeals and replaces the following instruments, which would otherwise sunset on 1 October 2025:

- *Goods and Services Tax: Extension of Time to Issue An Adjustment Note Determination (No. 35) 2015,*
- *Goods and Services Tax: Extension of Time to Issue An Adjustment Note Determination (No. 36) 2015, and*
- *Goods and Services Tax: Extension of Time to Issue An Adjustment Note Determination (No. 37) 2015 – Supplies made by electricity distributors to electricity retailers.*

13. This instrument has the same substantive effect as the three instruments it is replacing.

Effect of this instrument

14. This instrument extends the time period in which an electricity distributor or public utility provider must issue an adjustment note under paragraph 29-75(2)(b) of the Act in relation to a taxable supply of electricity distributor services or utility services respectively.

15. This variation enables relevant electricity distributors and public utility providers to issue adjustment notes in timeframes that align more closely with their normal business practices.

Extension of time – electricity distributor

16. An electricity distributor is defined in the instrument to mean an entity that owns and operates an electricity network through which it transports electricity to end-use customers.

17. Electricity distribution services, as they pertain to an electricity distributor, are defined in the instrument as the delivery of electricity to end-use customers, along with the provision of related support services.

18. Under section 6, the time period in paragraph 29-75(2)(b) of the Act in which an electricity distributor must issue an adjustment note to an electricity retailer in respect of a supply of electricity distribution services is varied from 28 days to 98 days from when the electricity distributor becomes aware of the adjustment.

19. The other requirements of paragraph 29-75(2)(b) of the Act are unchanged by this instrument, and require the electricity distributor to have:

- (a) made the taxable supply to the electricity retailer;
- (b) issued a tax invoice in relation to the supply (or for the electricity retailer to have requested one); and
- (c) became aware of the adjustment before an adjustment note is requested by the electricity retailer.

20. However, if the electricity distributor receives a request from the electricity retailer to issue an adjustment note, then, under paragraph 29-75(2)(a) of the Act, they must do so within 28 days of the request.

Extension of time – public utility provider

21. A public utility provider is defined in the instrument to mean an electricity or gas retailer whose primary business is to provide electricity or gas to the public for domestic or business purposes. A public utility provider may be publicly or privately owned.
22. Utility services, in respect of a public utility provider, are defined in the instrument to mean the provision of gas and electricity services and associated ancillary supplies.
23. Under section 7, the time period in paragraph 29-75(2)(b) of the Act, in which a public utility provider must issue an adjustment note to a recipient, is varied from 28 days to the earlier of:
- (a) 98 days of the public utility provider becoming aware of the adjustment, and
 - (b) the day on which the next invoice would normally be issued by the public utility provider to that recipient.
24. The other requirements of paragraph 29-75(2)(b) of the Act are unchanged by this instrument, and require the public utility provider to have:
- (a) made the taxable supply to the recipient
 - (b) issued a tax invoice in relation to the supply (or for the recipient to have requested one), and
 - (c) became aware of the adjustment before an adjustment note is requested by the recipient.
25. However, if the public utility provider receives a request from a recipient to issue an adjustment note, then, under paragraph 29-75(2)(a) of the Act, they must do so within 28 days of the request.

Compliance cost assessment

26. *Compliance cost impact: Minor – There will be no additional regulatory impacts as the instrument is minor and machinery in nature (OIA25-09609).*

Consultation

27. Subsection 17(1) of the *Legislation Act 2003* requires the Commissioner to be satisfied that appropriate and reasonably practicable consultation has been undertaken before they make an instrument.
28. Public consultation was undertaken for a period of 4 weeks commencing 04/06/2025 on drafts of this instrument and explanatory statement.
29. The draft instrument and draft explanatory statement were published on the ATO Legal database and publicised on the database's 'What's new' page. Major tax and superannuation publishers and associations commonly monitor these pages and usually include the details in the daily and weekly alerts and newsletters to their subscribers and members.
30. No feedback was received on the draft instrument and explanatory statement during the consultation period.

Legislative references

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

Acts Interpretation Act 1901

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 legislative instrument extends the time in which an electricity distributor or public utility provider has to issue an adjustment note. Generally, a supplier would be required to issue an adjustment note within 28 days of becoming aware of an adjustment. However, the Commissioner has specified a different time period for issuing an adjustment note which better aligns with the normal business practices of these suppliers.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms, as it merely varies the time in which an electricity distributor and public utility provider may issue an adjustment note in certain circumstances.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.