

# EXPOSURE DRAFT

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## **Schedule 1—Attribution of input tax credits**

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

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#### **1 Subsection 29-10(4)**

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Omit “the tax period referred to in paragraph (3)(b)”, substitute “a tax period”.

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#### **2 At the end of section 29-10**

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Add:

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Note: Section 93-5 may provide a time limit on your entitlement to an input tax credit.

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1 ; and (c) any \*third party adjustment note for a \*decreasing adjustment  
2 under section 134-5 that relates to a \*taxable supply made  
3 through that GST branch.

## 4 # At the end of subsection 54-50(2)

5 Add “, and section 134-20 (which is about third party adjustment  
6 notes)”.

## 7 # Section 129-80 (heading)

8 Repeal the heading, substitute:

### 9 **129-80 Effect of adjustment under Division 19, 21 or 134**

## 10 # Section 129-80

11 Omit “or 21”, substitute “, 21 or 134”.

## 12 # At the end of subsections 131-55(3) and (4) (before the 13 notes)

14 Add:

15 ; or (c) an adjustment for the acquisition under Division 134.

## 16 # Before Division 135

17 Insert:

## 18 **Division 134—Third party payments**

### 19 **134-1 What this Division is about**

20 You may have a decreasing adjustment if you make a payment to  
21 an entity that acquires goods that you had supplied to another  
22 entity. The entity receiving the payment may have an increasing  
23 adjustment.

### 24 **134-5 Decreasing adjustments for payments made to third parties**

25 (1) You have a *decreasing adjustment* if:

- 26 (a) you make a payment to an entity (the *payee*) that has  
27 acquired goods that you had supplied to another entity  
28 (whether or not that other entity supplied the goods to the  
29 payee); and

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- 1 (b) your supply of the goods to the other entity was a \*taxable  
2 supply; and
- 3 (c) your payment is made in connection with, in response to or  
4 for the inducement of the payee's acquisition of the goods;  
5 and
- 6 (d) your payment is not \*consideration for a supply to you.
- 7 (2) The amount of the \*decreasing adjustment is an amount equal to  
8 the difference between:
- 9 (a) the amount of GST payable on your supply to the other  
10 entity, taking into account any other \*adjustments relating to  
11 the supply; and
- 12 (b) the amount of GST that would have been payable for that  
13 supply:
- 14 (i) if the \*consideration for the supply had been reduced by  
15 the amount of your payment to the payee; and
- 16 (ii) taking into account any other adjustments relating to the  
17 supply, as they would have been affected (if applicable)  
18 by such a reduction in the consideration.

## 19 **134-10 Increasing adjustments for payments received by third** 20 **parties**

- 21 (1) You have an *increasing adjustment* if:
- 22 (a) you receive a payment from an entity (the *payer*) that  
23 supplied goods that you acquired from another entity  
24 (whether or not that other entity acquired the goods from the  
25 payer); and
- 26 (b) your acquisition of the goods from the other entity was a  
27 \*creditable acquisition; and
- 28 (c) the payment is made in connection with, in response to or for  
29 the inducement of your acquisition of the goods; and
- 30 (d) the payment is not \*consideration for a supply from you.
- 31 (2) The amount of the \*increasing adjustment is an amount equal to the  
32 difference between:
- 33 (a) the amount of the input tax credit to which you are entitled  
34 for your acquisition from the other entity, taking into account  
35 any other \*adjustments relating to the acquisition; and
- 36 (b) the amount of the input tax credit to which you would have  
37 been entitled for that acquisition:

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- 1 (i) if the \*consideration for the acquisition had been  
2 reduced by the amount of the payer's payment to you;  
3 and  
4 (ii) taking into account any other adjustments relating to the  
5 acquisition, as they would have been affected (if  
6 applicable) by such a reduction in the consideration.

## 7 **134-15 Attribution of decreasing adjustments**

8 (1) If:

- 9 (a) you have a \*decreasing adjustment under section 134-5; and  
10 (b) you do not hold a \*third party adjustment note for the  
11 adjustment when you give to the Commissioner a \*GST  
12 return for the tax period to which the adjustment (or any part  
13 of the adjustment) would otherwise be attributable;

14 then:

- 15 (c) the adjustment (including any part of the adjustment) is not  
16 attributable to that tax period; and  
17 (d) the adjustment (or part) is attributable to the first tax period  
18 for which you give to the Commissioner a GST return at a  
19 time when you hold that third party adjustment note.

20 However, this subsection does not apply in circumstances of a kind  
21 determined by the Commissioner, by legislative instrument, to be  
22 circumstances in which the requirement for an adjustment note  
23 does not apply.

24 Note: For the giving of GST returns to the Commissioner, see Division 31.

- 25 (2) This section does not apply to a \*decreasing adjustment of an  
26 amount that does not exceed the amount below which, under  
27 subsection 29-80(2), subsections 29-20(3) and 29-75(2) would not  
28 apply to a decreasing adjustment.
- 29 (3) This section has effect despite section 29-20 (which is about  
30 attributing adjustments).

## 31 **134-20 Third party adjustment notes**

- 32 (1) A *third party adjustment note* for a \*decreasing adjustment that  
33 you have under section 134-5 is a document:  
34 (a) that is created by you; and  
35 (b) a copy of which is given, in the circumstances set out in  
36 subsection (2), to the entity that received the payment that  
37 gave rise to the adjustment; and

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- 1 (c) that sets out your \*ABN; and  
2 (d) that contains such other information as the Commissioner  
3 determines in writing; and  
4 (e) that is in the \*approved form.

5 However, the Commissioner may treat as a third party adjustment  
6 note a particular document that is not a third party adjustment note.

- 7 (2) You must give the copy of the document to the entity that received  
8 the payment:  
9 (a) within 28 days after the entity requests you to give the copy;  
10 or  
11 (b) if you become aware of the adjustment before the copy is  
12 requested—within 28 days, or such other number of days as  
13 the Commissioner determines under subsection (3) or (5),  
14 after becoming aware of the adjustment.
- 15 (3) The Commissioner may determine in writing that paragraph (2)(b)  
16 has effect, in relation to a particular document, as if the number of  
17 days referred to in that paragraph is the number of days specified in  
18 the determination
- 19 (4) A determination made under subsection (3) is not a legislative  
20 instrument.
- 21 (5) The Commissioner may determine, by legislative instrument,  
22 circumstances in which paragraph (2)(b) has effect, in relation to  
23 those circumstances, as if the number of days referred to in that  
24 paragraph is the number of days specified in the determination.

## 25 **134-25 Adjustment events do not arise**

26 To avoid doubt, a payment that gives rise to an \*adjustment under  
27 this Division cannot give rise to an \*adjustment event.

## 28 **# Section 195-1 (before table item 7 of the definition of** 29 ***decreasing adjustment*)**

30 Insert:

6B Section 134-5 Third party payments

## 31 **# Section 195-1 (after table item 5B of the definition of** 32 ***increasing adjustment*)**

33 Insert:

6 Section 134-10 Third party payments

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1 **# Section 195-1**

2           Insert:

3                   *third party adjustment note* means a document that complies with  
4                   the requirements of section 134-20 and (if applicable)  
5                   section 54-50.

6 **# Application**

7           The amendments made by this Schedule apply in relation to payments  
8           made on or after 1 July 2010.

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