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Schedule 1—Attribution of input tax credits

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

1 Subsection 29-10(4)

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

2 At the end of section 29-10

Add:

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

134-15 Attribution of decreasing adjustments

(1) If:

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

then:

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

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

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

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

134-20 Third party adjustment notes

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