



Australian Government

The Board of Taxation

Review of the Legal Framework for the Administration of the GST

**Tax professionals consultation meeting
Melbourne, 8 August 2008, 9.30-11.00 am**

Summary of key issues

- Burning issues identified at beginning of session: lack of guidance regarding time of supply rules, GST education and training, grouping – moving in and out of groups, clean exit rules, incapacitated entities, GST refunds and cost of administering large scale refunds, cost of administering the financial acquisitions threshold (FAT) in relation to takeovers, small adjustment events for FBT and entertaining, registration thresholds for charitable and NFP sector, thresholds generally, accounting software inadequacy, introduce quarterly estimates with annual reconciliation return process (subject to threshold), penalties, 15 year records retention under Div 129.
- Div 129 change of use adjustment could be aligned to income tax. Section 105-50 & 105-55 of schedule 1 to the TAA change has led to uncertainty with records being required to be kept for 15 years. Option - align record keeping requirements to the 4 year period of review.
- Non-resident entity – hurdles for registration, when many will be grouping with an Australian entity. Option – harmonise foreign entity requirements with New Zealanders. Option – where grouping with an Australian entity, streamline process. Option – group on the same form as registration.
- Where have resident agent appointed, no need for non-resident to register. No need to register where only GST free supplies – keep evidence of supplies. Require further identification for registration purposes by non-residents only where refund payable or they leave the group.
- Another option (eg for contra supplies, going concern) – voluntary reverse charge could avoid risks.
- Div 83 simplification – accounting where fully creditable transaction. Cost of processing transaction has no impact on revenue, but complex process and administrative burden including converting foreign currency. Option – Apply Division 84 in Div 83 context.
- Option – allow people to receive/pay expected refund on a quarterly basis, and then have an annual return, like PAYG. Could apply under a specified turnover threshold, and include appropriate penalties.
- BAS Easy – need to consider how would this fit with income tax. Current proposal has no adjustments. Interaction between GST and income tax – some issues (eg adjustments impact on deductions).

- Tax invoices - do not have to rely on whose name is on an invoice. Allow them to be claimed within the group. Comparisons with income tax consolidated groups. Option – creditable acquisition the fundamental test, it shouldn't relate to which entity within the same group. Would reduce additional tax invoice requirements.
- Grouping option – mid-month grouping and de-grouping.
- Tax invoices for insurance policies – amount of GST is not clear. Option - tax invoice to have “name of recipient or representative entity” on it.
- Complying with tax invoice requirements eg ‘Tax invoice’ in bold and prominent manner difficult for non-residents, whose systems don't cater for it. Eg name and address of supplier (div 66 record is invalid if incorrect address).
- RCTIs and the need for separate agreements. Option – make RCTI incorporate agreement.
- Option – group and register in one step.
- Self-generate grouping. No reason Tax Office has to do it. Would be faster then.
- Adjustments – need to amend BAS's where no liability. Onerous – need to adjust every BAS. Option – Tax Office fixes BAS for you at your request. This would generate interest on overpayments. Option – increase \$ amount to put into a prospective BAS – correcting GST mistakes. Maybe tie it to revenue levels as current level may be appropriate to small business, but not large business. Another option – supplementary return.
- Option - language on BAS and labels needs to reflect the wording in the legislation eg ‘sales’ and ‘financial supplies’. Make it more intuitive.
- Option – netting of GIC across different taxes ie a credit from one tax being applied against another liability. Running balance account rules could enable this. Issue: GIC from GST goes to states.
- GST shortfalls (excluding wash transactions). Option - penalise taxpayer at the IOP rate, rather than GIC.
- Wash transactions should not be subject to GIC, just normal penalty provisions (where deliberate).
- Change of use in property industry. Sell – rent – sell. Option – look at intention to sell, and ensure marketing property. Adjust on consumption basis linked to depreciation or capital allowances regime.
- Option – shorter period of review for categories of supplies such as retail transactions. Could leave business to business with longer period. But – how does it work if selling to both?
- Going concern and Div 135. Eg buy retirement village and treat as going concern by mistake, but realise will be making input taxed supplies. Option – going concern doesn't apply to extent underlying supply is GST free or input taxed.
- Where a non profit body finds a supply is GST free but can't get refund of GST because can't satisfy passing on provisions. For refunds generally – guidelines for retailers on how to pass on to a class of consumers.

- Boarding schools input taxed, meals taxable, but if consume at home not paying tax on own meals. This is an anomaly.
- Nominal consideration rules - 50/75% no choice. Difficult to determine what things are included. Option - voluntary application of nominal consideration rules.
- Non-profits - need better understanding of rules.
- Associate & barter rules – need a work around where two creditable supplies.
- Time of supply rules. Issues for thresholds – when do supplies count towards them. Also for grouping, associate rules, contra rules, Div 84 rules.
- Domestic agents that are just invoicing agents – caught up in non-resident registration. Option – broaden Div 57.
- Financial supply, if exceed financial acquisitions threshold, can't revisit costs if transaction doesn't occur. Option – clarify within law (Div 129). Option – change from 'and' to 'or' threshold (higher of), and also increase threshold. Alternative option – look at different base.
- Education initiatives – 3 major problems: mindset towards GST education, current curriculum – GST an elective at some universities and not included at others, GST software trainers don't have expertise. Language issues (acronyms, legislative references) – difficult for business owners.
- Grouping – moving in and out of groups is an example. Option – rework the grouping rules.
- Should have class rulings for GST, eg on products.