



Australian Government

The Board of Taxation

Review of the Legal Framework for the Administration of the GST

Tax Professionals consultation meeting Perth, 21 August 2008, 10.15am - 11.45am

Summary of key issues

- Issues identified at beginning of session: issues can arise if don't claim an input tax credit when entitled, adjustment thresholds, registration of foreign entities, partnerships, joint ventures, tax law partnerships.
- Section 29-10(4); if you didn't claim an input tax credit when entitled, can't amend the BAS in the original period and net it off against any underpayment. Would have to amend previous BAS for sales you forgot to report, but then can't claim the ITC you forgot in same period against that same liability. Consequence GIC on underpayment but no interest on overpayment. While intention of section was a concession, it creates a problem. Options – allow changes in the original period or recognise the GST in a later period.
- Adjustment thresholds low. Option – raise them, especially for wash transactions.
- Foreign registered entities. Example of foreign subsidiary making one-off transactions being brought into the GST net. Resulting in administration requirements.
- Partnerships – how to treat supplies coming in and going out of partnership. Does a joint venture form general law partnership or tax law partnership? Despite new ruling, still a lot of questions. Every partnership different. Issues both with the law and the administration.
- General law partnerships not as big an issue as tax law partnerships, because more rulings for general law partnerships.
- Grey area between general law partnerships, tax law partnerships and joint ventures.
- Retirement village industry refund - the Tax Office has advised the taxpayer is entitled to the refund. It is being held up by another (non-related) technical issue. Length of time (18 months) an issue.
- Rulings – would it be helpful if binding on both parties to a transaction? How would it work in practice? Practical problem is applying private rulings in a supply chain. Do taxpayers want to be involved in a process that was initiated by someone else? Privacy issues.
- Grouping – clients don't get a record of which companies are grouped. Difficulty of grouping where trusts are involved. Difficulty of tracing beneficiaries of trust.
- GIC regime overly complicated. Need more clarity around when it should or shouldn't be imposed.

- Can't get a refund if bank account doesn't have the taxpayer's name in it. Example of subsidiary, also includes where there is a bare trustee. (There is no record of the bare trust relationship within Tax Office records). Option – authorised person nominates account refund goes to.
- Grouping – can't tell from Australian Business Register if different entities are grouped or not, need to call Tax Office to find out.