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Major GST reviews completed

The 2010-11 Federal Budget includes a number of Goods and Service Tax (GST) measures which will extend the GST administration reform agenda out to 2012. In particular, the Government released its initial response to the following reviews:

- The Board of Taxation review of the application of GST to cross-border transactions
- The Treasury review of the GST margin scheme, and
- The Treasury review of the financial supply provisions.

This special edition of TaxTalk outlines the key proposals, all of which will be subject to further consultation. It also highlights other GST announcements made in this year's Budget.

Cross-border transactions

The Government released the Board of Taxation report on the application of GST to cross-border transactions, and announced that it will accept all of the

Board's recommendations. The changes are intended to take effect from 1 July 2012.

In summary, the Board recommended that the GST law be amended to provide that:

- the supply of goods, services and intangibles by a non-resident (with no business presence in Australia) to a registered Australian business will not be 'connected with Australia'
- the supply between non-residents of goods that are in Australia and subject to a continuing lease will not be connected with Australia
- the compulsory reverse charge rule complements the changes to the 'connected with Australia' rules mentioned above
- supplies of services or intangibles made to a non-resident but provided to a registered business in Australia are GST-free
- supplies of warranty services (including replacement parts) made to a non-resident but provided to an Australian warranty holder are GST-free



- the non-resident agency provisions:
 - can apply to resident commission agents, and
 - do not require non-residents to register for GST if the only taxable supplies and/or creditable acquisitions they make are through a resident agent
- non-residents are not required to register if they only make GST-free supplies
- the registration process for non-residents be streamlined, and
- options for calculating the transport and insurance costs included in the value of taxable importations are introduced.

In addition, the Board recommended that:

- a direct GST refund system (that sits outside the current registration system) for non residents is not currently required, however this matter may be reviewed in future
- the low value importation threshold of \$1000 is appropriate and should be retained, and
- the Commissioner should improve taxpayer awareness and education in relation to input tax credits for imported goods.

While the details of how the Government intends to implement these recommendations remain to be seen, the Government's announcement is essentially good news for entities involved in cross-border transactions, and particularly for non-residents who are currently caught within the Australian GST system.



Margin scheme for real property

The Government has decided not to embark on wholesale changes to the margin scheme for real property. However, the following amendments are intended to clarify the law and simplify compliance:

- providing greater prominence to the main principles
- setting out exceptions separately
- inserting objects clauses for the key provisions, and
- ensuring that a valuation can be obtained for the purposes of using the margin scheme for subdivided land.

These changes are intended to take effect from 1 July 2012.

Further consideration will also be given to clarifying the interaction of tax law partnerships with the margin scheme.

While the Government will undertake further consultation in relation to the implementation of the above changes, it is clear that they will not involve broad scale reforms to the margin scheme. Effectively retaining the status quo on the margin scheme remains problematic. The margin scheme has been the single biggest area for GST litigation, and this is likely to continue in the absence of broader reforms.

Financial supplies

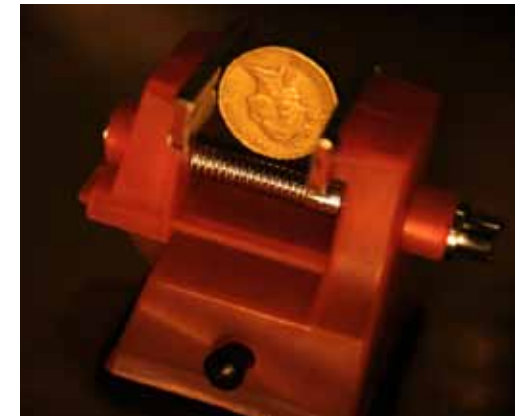
The Government will not undertake significant reform of the financial services provisions. However, it will make a number of amendments, with effect from 1 July 2012, which are intended to clarify the operation of these provisions and reduce compliance costs. The changes include:

- increasing the Financial Acquisitions Threshold from \$50,000 to \$150,000
- simplifying the treatment of hire purchase agreements so that they are treated wholly as taxable
- excluding bank deposit accounts held by financial institutions from the borrowing rules, and

- amending the reduced input tax credit (RITC) provisions to:
 - expand the range of expenses which will qualify for an RITC, particularly in relation to certain supplies of life insurance, lenders' mortgage reinsurance and transactional fraud monitoring services, and
 - reduce opportunities for businesses to access the RITC concessions by bundling services.

The Government has confirmed that the current RITC rate of 75 per cent will be retained.

Overall, the financial services industry will be relieved that there will not be substantial changes to the existing provisions, particularly given the level of investment which has been made to address fundamentally complex provisions.



Other GST announcements

Deferral of start dates for key measures

The Government has confirmed that the start dates for the following 2009-10 Budget measures have been revised from 1 July 2010 to 1 July 2011:

- adoption of the income tax self assessment regime
- reform of the change of use adjustments
- allowing adjustments for pre-registration acquisitions
- clarifying the treatment of tax law partnerships
- simplifying the GST grouping rules, and
- introducing a reverse charge for supplies of going concerns and farmland

This delay in start dates will allow more time for consultation.

Exempt taxes, fees and charges

The current mechanism for exempting Australian taxes, fees and charges will be replaced with a principles-based exemption, with effect from 1 July 2011. The law currently specifies that Australian taxes, fees and charges are exempt from GST if they are included in a Determination made by the Treasurer.

Sale of boats for export

The export provisions will be amended with effect from 1 July 2011 to allow eligible supplies of boats used for recreational purposes to be GST-free if the boats are exported within 12 months.

Increased ATO funding for GST compliance

The Government announced that it will provide \$337.5 million over four years to the Australian Taxation Office to fund additional activities that promote voluntary GST compliance.



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