



22 September 2011

Ms Brenda Berkeley
The General Manager
Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Attention: Jenny Lin, Policy Analyst (jenny.lin@treasury.gov.au)

Submission on Exposure Draft – Assessment of amounts under indirect tax laws

Dear Brenda,

The Institute of Chartered Accountants in Australia (the Institute) welcomes the opportunity to provide comments in respect of the revised exposure draft legislation (the ED) released on 22 August 2011 to harmonise GST, wine equalisation tax (WET), luxury car tax (LCT), and fuel credits with the income tax system of self-assessment.

The Institute has had the benefit of reviewing The Tax Institute's (TTI) submission of 20 September 2011 on this issue and many of the points raised in TTI's submission are consistent with our views. In this submission, we have provided some additional points which are not covered by TTI.

Structure

The ED maintains the approach of the initial exposure draft legislation released on 18 January 2011 whereby the 'assessable amount' and the assessment represents the total of the following for a tax period:

- GST payable on taxable supplies
- Input tax credits (ITCs)
- Increasing and decreasing adjustments for GST and ITCs
- WET payable and creditable and adjustment, and
- LCT payable and creditable.

Tax on importation and certain other GST liabilities and credits are separate 'tax related liabilities or entitlements' and are the subject of separate assessments. The GST Imposition Acts continue to impose only the rate of 10%.

We consider that the proposed structure is likely to cause practical difficulties and uncertainties in administration and compliance. There does not seem to be any principle – in harmonisation or otherwise – that would favour a single assessment incorporating different taxes.

GPO Box 9985
in your capital city

Customer Service Centre
1300 137 322

NSW
33 Erskine Street
Sydney NSW 2000
Phone 61 2 9290 1344
Fax 61 2 9262 1512

ACT
L10, 60 Marcus Clarke Street
Canberra ACT 2601
Phone 61 2 6122 6100
Fax 61 2 6122 6122

Qld
L32, 345 Queen Street
Brisbane Qld 4000
Phone 61 7 3233 6500
Fax 61 7 3233 6555

SA / NT
L11, 1 King William Street
Adelaide SA 5000
Phone 61 8 8113 5500
Fax 61 8 8231 1982

Vic / Tas
L3, 600 Bourke Street
Melbourne Vic 3000
Phone 61 3 9641 7400
Fax 61 3 9670 3143

WA
Ground, 28 The Esplanade
Perth WA 6000
Phone 61 8 9420 0400
Fax 61 8 9321 5141

Amendment of assessments

It appears that it is proposed that self amendments of assessments may be processed by the Commissioner without 'formal consideration' of the particulars. The outcome of this self assessment will, it seems, appear as an entry to the running balance account (RBA).

Taxpayers are concerned that the RBA data is difficult to reconcile and does not represent an adequate form of notice of an amendment having been made. In practice, a taxpayer would need to maintain a daily watch on its RBA to ascertain when the amendment has been made.

It is a particularly inadequate mechanism for notifying amendments where many monthly BASs are involved and reconciling changes for each month is required. The Institute therefore recommends imposing a requirement for a formal notice of amendment and the particulars of the amendment.

Refreshing period of review

The proposed s155-45 of the *Taxation Administration Act 1953* (TAA) contains provisions that allow a further four year period of review where an amendment has been made to an assessment (or amended assessment) within the relevant period of review.

An amendment outside of the original period of review is only available 'in relation to the particular' of the amendment of the amendment.

As presently drafted, the identification of the 'particular' is of utmost significance to ascertaining matters that remain open for both taxpayers and the Commissioner. While it is understood that it might be necessary to exclude unrelated matters from amendment outside the period of review, many circumstances seem to arise in an indirect tax that is assessed on monthly tax periods that will not be open under the proposed rules.

Examples that arise in practice are:

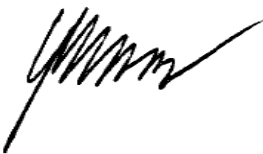
- ITCs in a different tax period to the period in which a supply may have been amended to taxable as opposed to input taxed, and
- ITCs or GST payable that have been attributed to the wrong period and have been properly attributed by amendment but not excluded (or included) in the other period.

The ED does not allow sufficient flexibility in ensuring that 'related' adjustments can be made (by taxpayers and the Commissioner) to offset changes to net amounts made by way of amendment.

Again, the transactional nature of indirect taxes and monthly tax periods make this issue far more significant than in an annually assessed income tax.

We trust that these comments are of assistance to you. If you would like to discuss any aspect of this submission or require any further information, please contact me on 02 9290 5623 or Donna Bagnall on 02 9290 5761.

Yours sincerely



Yasser El-Ansary
Tax Counsel
The Institute of Chartered Accountants in Australia