



THE TAX INSTITUTE

4 December 2012

General Manager
Indirect, Philanthropy and Resource Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600
Attn: Mr Richard Cook

By email: gstpolicyconsultations@treasury.gov.au

Dear Mr Cook,

Tax Laws Amendment (2012 Measures No. 3) Bill 2012: GST instalment system Exposure Draft

The Tax Institute is pleased to have the opportunity to make a submission to the Treasury in relation to the Tax Laws Amendment (2012 Measures No. 3) Bill 2012: GST instalment system Exposure Draft (**Exposure Draft**).

Discussion

The Tax Institute understands that this measure stems from a policy announcement made in the 2011-12 Federal Budget which in essence stated that the Government would extend the current goods and services tax (**GST**) instalment system to allow small businesses that are in a net refund position to access the GST instalment system.

We note that the Board of Taxation (**Board**) recommended a simplified reporting approach be made available for entities with a net turnover under \$2 million and would apply after their first year of operation and including if they were in a net refund position¹. In the alternate, the Board recommended the GST instalment system be expanded to encompass entities in net refund positions².

Our members see this measure as a positive move towards alleviating an administrative burden which would be able to be undertaken without any significant impact.

¹ Refer to the Board of Taxation's report entitled "*Review of the Legal Framework for the Administration of the Goods and Services Tax*" issued in December 2008, in particular Recommendation 1 on p25.

² Ibid – see Recommendation 2.

We understand the Exposure Draft amends Division 162 of the *A New Tax System (Goods and Services Tax) 1999 (Cth)* to now allow entities who at some stage move into a net refund position to be able to remain in the GST instalment system. This is confirmed at paragraph 1.11 of the Explanatory Memorandum (**EM**) to the Exposure Draft.

However, as noted at paragraph 1.13 of the EM, business entities that currently do not pay GST by instalments and are already in a net refund position remain ineligible to access the instalment system.

In a Consultation Paper issued in June 2011 in relation to this measure, the policy intent of the measure was described as:

The policy objective is to assist those taxpayers that temporarily move into a net refund position (for example because of a one-off acquisition), and those taxpayers normally in a net refund position who consider that the compliance cost advantage of submitting their BAS annually outweighs the cash flow cost of delayed refunds³.

We note that the Exposure Draft does not allow for taxpayers who are always in a net refund position and already in a net refund position to access the GST instalment system on the basis that the Exposure Draft does not repeal section 162-5(e), the condition in the eligibility criteria that prevents such taxpayers from accessing the instalment system.

We query why such a shift in policy from the original policy intention stated in the Consultation Paper has occurred here which prevents net GST refund lodgers from accessing the instalment system and being able to lodge their BAS on an annual basis in line with their income tax obligations. No explanation for this policy shift is provided in the EM. This limits the number of taxpayers who are able to have their administrative burden with respect to their GST obligations alleviated in this way.

The Tax Institute would like to understand why the Government has chosen to narrow the policy in this way.

If you would like to discuss any of the above, please contact either me or Tax Counsel, Stephanie Caredes, on 02 8223 0011.

Yours sincerely



Ken Schurgott
President

³ See paragraph 5 in the *“Allowing small businesses in a net refund position to access the GST instalment system”* Consultation Paper issued by Treasury on 7 June 2011.