20 November, 2017

Manager
Indirect Taxes and Not-for-profit Unit
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: GSTProperty@Treasury.gov.au

To whom it may concern,

Improving the integrity of GST on Property Transactions

The ABN Group is a leader in Australia's construction, property and finance industries and welcomes the opportunity to make a submission to Treasury in relation to the paper entitled "Withholding GST from Property Transactions – November 2017" (**Consultation Paper**).

The ABN Group does not support the proposed legislation. If enacted the new laws would add cost, red tape and further complexity to thousands of property transactions each year. Although the motivation for the Bill is to prevent the loss of GST revenue due to "phoenix" operators, the current draft legislation applies to all developers selling new residential premises or potential residential land. We believe the ATO should tackle illegal phoenixing in such a manner as discussed in Treasury's "Combatting Illegal Phoenixing" consultation paper released in September rather than through GST legislation.

As a group, we operate 20+ businesses (based in Western Australia and Victoria) covering new home design and construction, commercial property development, property finance, real estate (land) development, conveyancing, plumbing, renovations, concreting, roofing, ceiling & wall fixing and kitchen design & installation. Gross turnover for the 2017 financial year exceeded $1 billion and the ABN Group was ranked 3rd largest home builder nationwide in the 2016/17 HIA Housing 100 publication, and 1st in Western Australia.

The ABN Group considers GST obligations and compliance with great respect and ensures liabilities and lodgments are paid and administered according to legislative requirements. We support every effort to create a level playing field regarding GST as fraud and misrepresentation create unfair competition in our markets. However we believe the proposed changes to GST on property transactions will penalise many compliant businesses, as a result of illegal activities by a small number of developers in recent years.

Of particular concern is the impact these changes will have on 'mum & dad' purchasers in the property market. The changes to GST administration and payment in relation to residential property transactions will place:

- additional administrative burden on conveyancing practices and property developers;
- create confusion and inefficiencies in the calculation of GST and reconciliation;
- create delayed cash flow (in the form of GST payments/refunds for monthly remitters) and increased financing costs; and
- disproportionate impact on first home buyers.

As a result of the above, additional costs will be incorporated into the sale price placing further burden on the purchaser and creating additional challenges for housing affordability.

We estimate an additional transaction cost to ABN Group customers of approximately $750,000 for the 2016-17 financial year, based on 1,886 completed settlements. Additional administrative charges relating to potential system upgrade requirements, training and maintenance and compliance costs have not been quantified, but are expected to reach across many businesses within the ABN Group and will ultimately be borne by 'mum & dad' purchasers.

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We have further identified the following areas of concern:

1. Availability of GST credit to seller is reliant on purchaser making GST payment to ATO.
   The vendor does not appear to be released of their GST obligation even though the statutory liability rests with the purchaser. Once settlement has occurred vendors have no control over what happens…vendors need to be released from any potential fraud, evasion or non-compliance by the purchaser.
2. The requirement that purchasers receive written notice 14 days in advance is unworkable. In practice, contract values are often determined much closer to the settlement date, and even upon settlement. Additionally, property transactions may be contracted and settled within a matter of days, and fall under the 14 day notification period.
3. Timing of refund for developers that are monthly remitters could be as high as 50 days.
   This is likely to have significant cash flow implications for some developers and may result in sale prices being buffered to compensate for additional required working capital as a result of delayed payment.
4. Three separate notifications are required to be prepared and lodged by either purchaser or seller.
   Each notification requires time to prepare and lodge along with additional time required to make payment.
   Issues may occur in quick settlement situations, and also over lost/incorrectly remitted/referenced payments to the ATO.
5. Additional burden on conveyancing businesses to ensure each seller has correctly advised if they are not required to remit or lodge.
   What reliance can the purchaser or agent place on the notification provided to them by the seller?
6. Loss of anonymity if property being sold under a bare trust arrangement.
7. Reliability of ATO systems to correctly match payments by purchaser to credit due to seller?
   Failure to correctly and efficiently match will result in increased administration costs to both the seller and purchaser.
8. Disproportionate impact to first home buyers.
   The administrative burden is likely to be the same across all transaction values therefore lower value transactions will pay proportionately higher fees.

We appreciate the opportunity to provide comment on the proposed changes and are happy to discuss further, and to help work toward a solution that is reasonable for all parties.

Yours faithfully

Lisa Betts
Group Financial Controller