



Australian Government

The Treasury

REFUNDING EXCESS GST

SUMMARY OF CONSULTATION PROCESS

The Government announced on 6 November 2013 its intention to proceed with the previously announced measure to restrict GST refunds with some amendments. This measure is aimed at strengthening the integrity of the GST revenue base by ensuring that excess GST paid by taxpayers is only refundable in certain circumstances and they do not secure a windfall gain by obtaining a GST refund, irrespective of how that GST overpayment occurs. The measure also restores taxpayers review rights under the existing refund provisions.

This measure was included in Tax Law Amendment (2014 Measures No.1) Bill 2014, which was introduced into Parliament on 27 March 2014.

Consultation process

The measure for restrictions on GST refunds had been announced by the previous government in a press release by the then Assistant Treasurer on 17 August 2012 and detailed in the 2012-13 Mid-Year Economic and Fiscal Outlook (MYEFO). Draft legislation was released on the Treasury website for two rounds of public consultation in August 2012 and February 2013. Following this consultation, the measure was introduced into the House of Representatives as part of the *Tax Laws Amendment (2013 Measures No 4) Bill 2013* on 26 June 2013, which lapsed when Parliament was prorogued on 5 August 2013. 13 submissions were received for the initial consultation and a further 9 for the second.

Consultation on the latest draft legislation was conducted between 17 February 2014 and 28 February 2014. This draft was similar to that previously introduced with changes made to: strengthen the integrity of the measure, restore review rights under the existing refund provisions, and to remove the retrospective application of the measure. Four submissions were received, one of which was marked as 'private and confidential'.

Public submissions can be viewed on the [Treasury website](#).

Summary of key issues

Issues raised during the earlier consultations were published at the time the measure was introduced into the previous Parliament. The submissions received as part of the latest consultation raised some of the same concerns expressed in these earlier consultations and have not been repeated here. Two of these submissions essentially opposed the restrictions on refunds of overpaid GST. The submission from The Tax Institute, while welcoming the addition of provisions to restore the review rights of taxpayers under the existing refund provisions, expressed some concerns about how this was being given effect too. One such concern related to the issuing of a notice by the Commissioner of his decision under the existing refund provisions. Another



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submission sought clarification of how the measure applies in less common circumstances such as where a reverse charge applies.

We accept there is merit in confirming that the Commissioner must provide a notice of a refund decision under section 105-65 and propose to clarify that this will be equally applicable in relation to decisions made under the new Division 142. This is consistent with the Commissioner's current practices.

The suggestion in a confidential submission for further clarification about the operation of the restriction on refunds in less common cases has been addressed by including material in the explanatory memorandum that sets out how it is considered that the measure will apply to overpayments that arise in a reverse charge context.

The other suggestions by The Tax Institute, and those raised in the other submissions, have not been accepted as they either run counter to the policy intent of the new measure or are considered unnecessary to give effect to the policy intent.

Feedback

Feedback on the consultation process for this measure can be forwarded to consultation@treasury.gov.au. Alternatively, you can contact Rob Dalla-Costa on (02) 6263 3328.

Thank you to all participants in the consultation process.