



## Australian Government

### The Treasury

## GST FINANCIAL SUPPLY PROVISIONS

### SUMMARY OF CONSULTATION PROCESS

The Government announced on 11 May 2010 that it would enact a package of seven measures in response to Treasury's *Review of the GST Financial Supply Provisions*.

Four of the seven measures were included in the *A New Tax System (Goods and Services Tax) Amendment Regulation 2012 (No. 1)*, which was registered on the Federal Register of Legislative Instruments on 29 May 2012.

The other three measures are being implemented by amendments contained in Schedule 3 to the *Tax Laws Amendment (2011 Measures No. 9) Act 2012*.

#### Consultation process

Consultation on proposed design and implementation options was conducted between 30 June 2010 and 30 August 2010 through the release of a discussion paper in June 2010. Ten submissions in response to the discussion paper were received. In addition a consultation meeting was held in Canberra on 19 October 2010 with a wide range of stakeholders attending.

Consultation on the draft regulations was conducted between 13 January 2012 and 24 February 2012. Twelve submissions in response to the exposure draft were received.

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

#### Summary of key issues

*Submissions were mostly concerned with the proposed amendments in relation to hire purchase agreements and supplies to recognised trust schemes.*

##### Hire purchase

*In respect of the hire purchase measure, submissions raised concerns that the draft regulations did not adequately cover all aspects of the credit component in hire purchase agreements and that credit in relation to other associated costs such as stamp duty would remain input taxed. It was also suggested that late payment fees should remain input taxed. Submissions further sought more clarity as to how the amended regulations would interact with luxury car tax and supplies of GST-free goods under hire purchase agreements.*

*Changes were made to the regulations to ensure that the entire credit component is no longer an input taxed supply, to provide simplicity and consistency in the treatment of all supplies under a hire purchase agreement. For this reason, it was considered that late payment fees under the agreement should also be treated in the same way as the other supplies under a hire purchase agreement. Further, the explanatory statement has been amended to provide greater clarity in*



## Australian Government

### The Treasury

*respect of luxury car tax calculations and the treatment of credit in relation to supplies of GST-free goods under hire purchase agreements.*

#### Supplies to recognised trust schemes

*The overriding concern with this measure was that the draft regulations go beyond the announced policy intent, and would adversely impact on entities that do not generally acquire and bundle other acquisitions into a single acquisition of trustee or responsible entity services. Submissions raised a concern that the new reduced input tax credit rate of 55 percent for these supplies is too low and creates incentives to unbundle. It was suggested that the new rate should be restricted to apply only to 'trustee services' and 'responsible entity services', or in the alternative, more exceptions should be added to the list in paragraph (b) of item 32 and certain entities should be carved out.*

*Stakeholders were concerned with the use of the term 'services' and the absence of an apportionment test for acquisitions that are partly covered by the exceptions provided. Their concerns also extended to the explanatory statement not providing enough examples. Some submissions suggested that the requirement that the trustee be carrying on an enterprise in their own capacity was unnecessary and should be removed.*

*The policy intent behind the measure is to reduce opportunities for acquisitions to be bundled into a single trustee or responsible entity fee, so an incentive to unbundle would be considered consistent with this policy. Further, it would be inconsistent with policy to simply reduce the rate for trustee and responsible entity fees only, or to add all of the suggested items to the list of exceptions. Item 24(h) has been removed from the exceptions entirely as this was seen to be at odds with the policy behind reducing the advantages gained with this exception.*

*To better target the amendments, item 33 has been added to the list of exceptions. Mortgage schemes and securitisation entities have also been carved out as these arrangements do not generally give rise to incentives to bundle acquisitions into a single trustee or responsible entity fee.*

*To address the apportionment concern, the regulations have been revised to specifically use a 'to the extent' test, and examples of how this is intended to operate are included in the explanatory statement. At the request of stakeholders, a more comprehensive list of acquisitions that would be covered by the item or the exceptions has not been included.*

*As the measure is only aimed at those circumstances where there are opportunities to bundle, it was considered that the scope of the measure should be limited to where the trustee or responsible entity is carrying on its own enterprise which includes making taxable supplies to the trust.*

#### Start date

*A number of submissions sought a delay in the start date of the measure to allow additional time to make system changes and deal with other administrative matters.*

*The Government was not persuaded to delay these measures for a range of reasons, including that these measures form part of a package of amendments announced by the Government. Part of this package which involve amendments to the legislation have already been enacted and are scheduled to commence on 1 July 2012.*



## Australian Government

### The Treasury

#### Other issues

*Other issues raised in submissions included a suggestion that a new criteria for item 33 requiring the monitoring and reporting services to be used in carrying out transactional fraud monitoring should be inserted, and a request to provide a reduced input tax credit for processing and assessing claims under life insurance policies by funds with self-insured arrangements,*

*These suggestions were not implemented as the additional requirement to item 33 would unnecessarily restrict the scope of the new reduced credit acquisition, and an expansion to self-insured arrangements would be outside the scope of the Government decision.*

#### **Feedback**

Feedback on the consultation process for this measure can be forwarded to [consultation@treasury.gov.au](mailto:consultation@treasury.gov.au). Alternatively, you can contact Rob Dalla-Costa on (02) 6263 3328 or Jenny Lin on (02) 6263 3865.

Thank you to all participants in the consultation process.