

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

Implementation of the recommendations of Treasury's review of the GST margin scheme

Many of the GST minimisation techniques that have been used in relation to the margin scheme have been within the literal reading of the Division 75 but definitely not within the desired policy outcome. For example, the use of GST group to create a GST-free supply to reset the margin before the 2005 changes to the margin scheme was effective under Division 75 but unquestionably there was never a policy intention to allow the margin scheme to apply to wash out the GST on the increase in value of real property while that real property was held by a GST registered entity.

This has left the Commissioner with no other option than to approach these techniques with the threat of Division 165 and the request to the Treasury for changes to Division 75.

In the discussion paper there is a single line that states

"23 The existing non-operative theme statement could be revisited to expand it to cover the entire division."

I believe there would be great value in doing this as a theme statement that clearly evidences the policy outcome that the Division is trying to achieve would assist in both guiding taxpayers and courts as they consider the actual legislation.

The current explanatory section in section 75-1 is does not assist in understanding what Division 75 does or is intended to do and does not provide any guidance at all in relation to its policy intent. A much more detailed explanatory section may be of greater use than a reordering of the provisions as proposed. Even the explanatory memorandum of *A New Tax System (Goods and Services Tax) Bill 1999* gives almost no assistance in understanding the reasoning and policy of the margin scheme other than a reasonably vague statement (which is actually misleading given the changes that have had to be made since 1999) that "The margin is the value added by your business."

Hope this helps.

Regards

Ken Mansell
Tax Manager
Raytheon Australia
Phone: +61 2 6122 0322
Fax: +61 2 6122 0204
Mobile: +61 0429 566 516
Web: www.raytheon.com.au

Delivering Systems Integration and Mission Support