NATIONAL INSTITUTE OF ACCOUNTANTS

21 October 2008

The Chairman
Board of Taxation
c/- The Treasury
Langton Crescent
PARKES ACT 2600

By email

Dear Sir

Review of the legal framework for the administration of the GST

The National Institute of Accountants (NIA) is one of the three professional accounting bodies in Australia. The NIA has over 20,000 members who work in all areas of the accounting profession, including advising on taxation matters, superannuation and financial planning. As such, the NIA has an interest in the review of the legal framework for the administration of the GST.

The NIA welcomes the review and acknowledges that the GST law and its administration is the cause of significant frustration and complexity for many of our members, their clients and other stakeholders. As two-thirds of the NIA's members work in and around small business we are aware of the compliance burden which the GST has created. Efforts to decrease this burden are very welcome.

The NIA's submission to the review is attached. We have offered observations and comments which we consider to be practical and aimed at reducing the compliance burden for taxpayers and especially small business.

If you have any queries or require further information on our submission, please don't hesitate to contact Vicki Stylianou on 02 6260 8619 (or vicki.stylianou@nia.org.au).

Yours faithfully

Roger Cotton
Chief Executive Officer
Encl

NATIONAL OFFICE

Level 6
555 Lonsdale Street
Melbourne VIC 3000
Australia

GPO Box 1637
Melbourne Vic 3001
Australia

Telephone
61 3 8665 3100
Facsimile:
61 3 8665 3130

Email:
natoffice@nia.org.au

www.nia.org.au

ABN 81 004 130 643

Quality System
Quality Endorsed Company

PROVIDING THE PNA DESIGNATION FOR ACCOUNTING PROFESSIONALS

The National Institute of Accountants

Submission to the Board of Taxation

Review of the legal framework for the administration of GST
September 2008

NATIONAL
INSTITUTE OF
ACCOUNTANTS
Every member counts

Every Member Counts

The National Institute of Accountants

The National Institute of Accountants (NIA) welcomes the opportunity to make this submission to the Board of Taxation and looks forward to working with the Board and other stakeholders on this significant area of reform.

The NIA is one of the three professional accounting bodies in Australia, representing over 20,000 accountants, business advisers, academics and students throughout Australia and internationally. The NIA has been around in one form or another since 1923. The NIA prides itself in not only representing the interests of its members but also the accounting profession in general as well as the public interest more broadly. Accordingly, our submission is made from both the perspective of our members and their clients, many of whom operate micro, small and medium enterprises; and with regard to matters which affect the public interest.

In preparing our submission the NIA has taken into account both member feedback and the opinion of practitioners specializing in the area of GST, with respect to various aspects of the administration of the GST and the BAS Easy proposal.

If you have any queries or require further information with respect to our submission then please don't hesitate to contact Vicki Stylianou on either (02) 6260 8619 or vicki.stylianou@nia.org.au.

Roger Cotton
Chief Executive Officer

Copyright
© National Institute of Accountants (ABN 81 004 130 643) 2008. All rights reserved. Save and except for third party content, all content in these materials is owned or licensed by the National Institute of Accountants (ABN 81 004 130 643).

Accounting for GST: tax invoice requirements

To reduce compliance costs and to streamline the operation of the GST, the NIA recommends that the Board consider the following changes:

1. Rescission of any requirements defining tax invoices that have no direct impact on the determination of whether an acquisition is creditable.

2. A new requirement that the name on a tax invoice must be (one of) the supplier's names that are recorded in the Australian Business Register against the supplier's ABN.

3. Modification of the provision allowing a recipient to claim input tax credit from an unregistered supplier.

4. Change subsection 9-15(3)(c) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act) to include all government grants (as well as appropriations).

Rescission of certain requirements defining tax invoices

Background

A recipient of a supply must hold a tax invoice before that recipient can claim input tax credit for a creditable acquisition[1]. A tax invoice must contain certain information, which is specified in the GST Act and *A New Tax System (Goods and Services Tax) Regulations 1999* (GST Regulations)[2]. Much of this information is unnecessary for the purpose of determining whether or not you have made a creditable acquisition.

Only businesses require tax invoices, because they need them to claim input tax credit. Hence, their primary use is within business to business transactions. End-users of supplies do not need a tax invoice because they cannot claim input tax credit.

The requirement to include on tax invoices information, which does not determine whether an acquisition is creditable, increases compliance costs. Businesses need to ensure that each tax invoice exceeding $75 (excluding GST) meets every requirement, before claiming an entitlement to input tax credit. The requirement is revenue-neutral over time, but can defer the entitlement input tax credit, until a valid tax invoice is received.

Compliance

Businesses are obliged to request tax invoices from suppliers. Suppliers frequently issue tax invoices that have errors and omissions. The recipient of the supply must peruse tax invoices to identify these errors and omissions and must isolate non-compliant tax invoices from the others, to exclude them from business activity statements.

---

[1] Section 29-5 of the GST Act

[2] Subdivision 29C of the GST Act and subdivision 29C of the GST Regulations

The recipient must then ask the supplier to issue a valid tax invoice. If this is not forthcoming after 28 days, the recipient may request the Tax Commissioner to treat the document as a tax invoice. The Tax Commissioner almost always does so. Hence, the recipient is denied input tax credit for up to two months, but is usually allowed to claim the input tax credit, eventually. Generally, this process only affects the timing of the input tax credit and is revenue-neutral for the Australian Taxation Office (ATO) because GST would have been paid by the supplier at the time of, or before, issuing the tax invoice.

For information, the following table is a summary of volumes and tax invoice problems encountered by a particular employer from 1 July 2005 to 30 June 2008:

2005-8	Number	Error Rate	Amount	Error Value
Checked	26,922	2.7%	110,329,536	5.7%
Tax Invoice problem	**Number**	**Error type rate**	**Invoice Amount**	**Error type value**
No GST statement, no GST, or GST incorrect	137	18.6%	1,200,924	19.3%
Supplier name not quoted or different from ABR	115	15.6%	410,689	6.6%
"Tax Invoice" missing	112	15.2%	391,985	6.3%
Extent of service not specified	109	14.8%	2,019,447	32.4%
Council's address, ABN not quoted or invalid	94	12.8%	626,426	10.0%
Supplier ABN not quoted or invalid	69	9.4%	1,066,360	17.1%
Undated or date incorrect	36	4.9%	98,903	1.6%
Incorrect or no total amount of supply	27	3.7%	135,819	2.2%
Council's name not quoted or invalid	16	2.2%	94,550	1.5%
Unregistered supplier charging GST	14	1.9%	145,522	2.3%
No brief description	4	0.5%	43,252	0.7%
Taxable supplies not identified	2	0.3%	194	0.0%
Quantity of goods not specified	0	0.0%	0	0.0%
	735	100.0%	6,234,071	100.0%

Some of the information on tax invoices is needed to ensure that an acquisition is creditable. Before a recipient can claim input tax credit, the supplier needs to advise their ABN, either the amount of GST included in the price, or a statement that the total price includes GST and the total price for the supply. The ABN and the supplier's name are important, because the recipient needs to know that the ABN belongs to the supplier and whether the supplier is registered for GST. With this information, the recipient can verify the ABN and the GST status of the supplier from the Australian Business Register. Based on members' experience, only 1.3% of tax invoices (2.6% of their total value) have problems in this area.

The amount of GST is also important, because the recipient needs to know whether the supplier has included GST in the price of the supply and whether GST applies to it. Based on members' experience, only 0.7% of tax invoices (1.3% of their total value) have problems in this area.

The remaining information that the legislation requires on a tax invoice is unnecessary and adds to compliance costs. Normally, a supplier would include it on an invoice, without the legislation requiring it. If needed, the information can be obtained from the supplier, without the necessity for its inclusion on an invoice.

The requirement for the words 'tax Invoice' to be on a tax invoice serves to distinguish them from invoices that are not tax invoices. If GST does not apply, the supplier should not issue a tax invoice. The disclosure of an amount of GST on an invoice by the supplier, or a statement that the total amount

includes any GST payable provides the same information and has the same effect as the words 'tax invoice' on a tax invoice. Hence, the latter information is redundant. Based on members' experience, 0.4% of tax invoices (0.4 % of their total value) omit this information. Redundancy can at times remove the potential for uncertainty and confusion.

The quantity of goods and/or extent of services supplied are often from documents other than the invoice (eg quotation, purchase order). This can be quite a vague item of information. The ATO has recently ruled that a monthly service that did not indicate the actual dates of the service – that is, the particular month of the supply – satisfied this requirement. A recipient is unlikely to pay any invoice unless it is satisfied that the invoice covers the specific goods and services that it has acquired. Current legislation requires this information only if the amount of the tax invoice exceeds $1,000. As it is unnecessary on lower-valued invoices, there seems to be no need for it at all. Based on members' experience, 0.4% of tax invoices (1.8% of their total value) omit this information.

A recipient must hold a tax invoice before claiming input tax credit. The requirement to include the name and address or ABN of the recipient on a tax invoice is also redundant. If a recipient holds an invoice, then the name and address on it are redundant (eg a tax invoice can be transmitted electronically, or hand delivered, without needing an address or ABN to be on the invoice). Current legislation requires this information only if the amount of the tax invoice exceeds $1,000 (which is arguably reasonable given the higher amounts involved). As it is unnecessary on lower-valued invoices, there seems to be no need for it at all. Based on members' experience, 0.4% of tax invoices (0.7% of their value) omit this information.

The date that a taxpayer receives an invoice is more important than the date of issue of the tax invoice. Once the taxpayer holds an invoice, the date of its issue must be in the past, of necessity. The value of this requirement is highly questionable. Based on members' experience, 4.9% of tax invoices (1.6% of their total value) omit this information.

Failure to provide the remaining information is rare.

Summary

Practitioners and taxpayers can spend about 25% of their time checking tax invoices for validity and following up invalid ones. While some of this checking and follow-up is necessary to ensure that creditable acquisitions have been made, significant savings in time and, therefore compliance costs, can be achieved by reducing the extent of information required on tax invoices.

In our view, there would be no loss to revenue and significant savings in compliance costs, if tax invoice requirements were limited to something along the following lines:

> If you do not hold an *invoice for a creditable acquisition when you give to the Commissioner a *GST return for the tax period to which the input tax credit (or any part of the input tax credit) on the acquisition would otherwise be attributable:
>
> (a) the input tax credit (including any part of the input tax credit) is not attributable to that tax period; and
>
> (b) the input tax credit (or part) is attributable to the first tax period for which you give to the Commissioner a GST return at a time when you hold that tax invoice.

However, this subsection does not apply in circumstances of a kind determined in writing by the Commissioner to be circumstances in which the requirement for a tax invoice does not apply.

An invoice for a *creditable acquisition:

(1) must be issued by the supplier, unless it is a *recipient created tax invoice (in which case it must be issued by the *recipient); and

(2) must set out the *ABN of the entity that issues it; and

(3) must set out the *price for the supply; and

(4) If the tax invoice is for one or more taxable supplies only, and the amount of GST payable on the supply or supplies is exactly 1/11th of the total price for the supply or supplies, the tax invoice must contain:

(a) a statement to the effect that the total amount payable includes GST for the supply or supplies; or

(b) the total amount of GST payable.

(5) If the tax invoice is for one or more taxable supplies and a supply that is GST-free or input taxed, or does not include GST, the tax invoice must:

(a) clearly identify each taxable supply; and

(b) contain the following information:

(i) the total amount of GST payable;

(ii) the total amount payable.

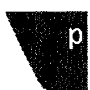
Alternatively, the requirement to hold a tax invoice for amounts over $75 (excluding GST) should be amended, so that it applies to amounts over $2,000 (excluding GST). The requirement for the specific information on invoices exceeding $1,000 should be amended, so that it applies to amounts over $100,000. In any event, these invoice amounts should be increased considerably.

The name on a tax invoice should be (one of) the supplier's names that are recorded in the Australian Business Register against the supplier's ABN

We consider that section 14 of *A New Tax System (Australian Business Number) Act 1999* could be more stringent. It requires a registrant to notify the Registrar of changes to information as a result of changes to circumstances affecting that information. However, there is no requirement for a registrant to notify the Registrar of any incorrect information that was recorded initially, or subsequently. There should also be a requirement that all trading names be included on the Register.

A tax invoice must include the name and ABN of the supplier. The name can be the entity's legal name, or a trading name. In many cases, a supplier neglects to record their trading name(s) on the Register. In effect, the supplier meets the requirement, if it includes a trading name, but the recipient of the supply should be able to check the trading name against the ABN. This facility may be available on State registers of business names, however, inquiry on both Commonwealth and State registers adds to compliance costs.

The NIA suggests that legislation should require all trading names to be recorded on the Australian Business Register and that at least one of the names recorded on the Register be included on tax invoices.



Modification of the provision allowing a recipient to claim input tax credit from an unregistered supplier

Section 11-5 of the GST Act states:

> You make a creditable acquisition if:
> (a) you acquire anything solely or partly for a *creditable purpose; and
> (b) the supply of the thing to you is a *taxable supply; and
> (c) you provide, or are liable to provide, *consideration for the supply; and
> (d) you are *registered, or *required to be registered.

Section 9-5 of the GST Act states:

> You make a taxable supply if:
> (a) you make the supply for *consideration; and
> (b) the supply is made in the course or furtherance of an *enterprise that you *carry on; and
> (c) the supply is *connected with Australia; and
> (d) you are *registered, or *required to be registered.
> However, the supply is not a *taxable supply to the extent that it is *GST-free or *input taxed.

If an unregistered supplier is required to be registered, then this supplier can make taxable supplies, in which case the recipient of the supplies can make creditable acquisitions. While the recipient can make inquiries of the Australian Business Register to determine whether the supplier is registered for GST, the Register does not and cannot disclose whether the supplier is *required to be* registered for GST.

Hence, unless the recipient has some evidence that the supplier has exceeded the registration threshold, the recipient cannot find out whether or not it has made a creditable acquisition. This information is not available from the ATO, unless the recipient seeks a determination that the recipient can claim input tax credit for an amount of GST and the ATO makes inquiry of the taxation status of the supplier. The recipient can ask the supplier whether it is required to be registered for GST on a particular date, but the response could be unreliable (if it comes at all).

Presumably, the only way for a recipient to obtain this information definitively is to seek a private ruling that it has made a creditable acquisition. The ATO would then have to inquire of the supplier whether it has exceeded the registration threshold, before issuing a private ruling. One would expect extensive delay while the ATO makes appropriate inquiries.

We recommend that section 11-5(b) of the GST Act be amended to read: 'the supply of the thing to you is a taxable supply from a supplier who is registered for GST; and'. This would deny the recipient an input tax credit. If the supplier became registered for GST retrospectively, the ATO could recover unpaid GST.

Although this change would not be revenue neutral, because overall GST revenue would increase, we consider that the amount of revenue arising from the change would be nominal. It would remove an anomalous situation for the recipients of supplies from such suppliers.

Exclude all government grants from GST

Section 9-15(3)(c) of the GST Act states:

> a payment made by a *government related entity to another government related entity is not the provision of consideration if the payment is specifically covered by an appropriation under an *Australian law.

This part of the Act should be quite clear for the paying entity, because the source of the payment should be readily accessible to them. However, the recipient of the payment can experience considerable difficulty in identifying the source of the payment, in order to ascertain whether or not the payment is specifically covered by an appropriation. Many departments do not publish detailed budgets, to which recipients can refer to ascertain the source of particular funding that they receive. Hence, they have to ask the paying entity to advise them of the source of the funds.

In practice, paying entities provide no information that will enable the recipient to make an informed decision as to whether a payment is specifically covered by an appropriation. Although three rulings have issued on this subject since 1 July 2000, we have discovered that many paying entities have a poor understanding of the requirements. Typically, they will insist on adding GST to an appropriation and require the recipient to issue a tax invoice, because they find the current ruling so lengthy and difficult to understand. In most cases they will not or cannot analyse the source of a payment, to find out whether each payment is specifically covered by an appropriation. In many cases it seems easier for them to add GST to the payment and hope for the best.

The main source of the confusion is that some grants are subject to GST, while appropriations are not. Although untied grants are not subject to GST (there is no supply), many grants have conditions attached to them. Some of these conditions are quite trivial. Thus, the recipient of the grant is under an obligation to do something, and this obligation becomes a supply to the paying entity. Such grants, if they are not appropriations, are subject to GST.

Essentially, nearly all payments from one government body to another are revenue-neutral, in respect of GST. The only time that they would not be revenue-neutral is if one of the bodies has elected to remain unregistered for GST. In all other cases, the GST is passed in a circular motion through the ATO in reverse direction to the grant. We consider this to be inefficient.

Our recommendation is that the exclusion of appropriations from being the provision of consideration be extended to all government to government grants. This would assist with compliance, because neither the recipient, nor the payer of a grant will need to distinguish between appropriations and other types of grants. Such a requirement would be simple and easily enforced. It would significantly reduce the paperwork involved in requesting and issuing tax invoices associated with these grants.

An alternative is to require in legislation that the paying entity disclose to other government related entities the source of funding for each grant they make to those entities and the nature of the relevant supplies. This would ensure there is no confusion between the entities and that the transactions are revenue-neutral. We consider that this proposal warrants further consultation.

Division 129

Division 129 adjustments, including the administrative complexities, should be considered by the Board (these are the adjustments where there is a change in creditable purpose meaning you have to adjust the amount of GST claimed back from the ATO on an acquisition).

Registration thresholds for not-for-profits

One consideration is to increase the GST registration threshold for not-for-profit cases where there is little or no revenue at issue. For example, sporting clubs which turn over more than $150,000 per annum but whose net annual rate of remission of GST to the ATO is less than $2,000. There is also the issue of netting of GST across tax types – presently the General Interest Charge (GIC) can still apply at punitive levels for one side of 'wash' cases where, for example, the taxpayer owes five years of FBT totalling $100,000 but the ATO owes the taxpayer five years of GST totalling $100,000, requiring submissions for remission of GIC and so on.

The above is indicative of the numerous GST administration issues which even though they may be applicable to only a narrow section of the registered entities nationally, are nevertheless meritorious in terms of reducing complexity. We suggest that the Board should consider these types of tedious administrative complexities and annoyances in the GST law otherwise it is likely they will remain embedded in the GST system for some time to come.

Registration turnover threshold

One of the most unfortunate consequences arising from the introduction of the GST is the extent of the taxation compliance burden imposed on small business. Many suspect this is having a deleterious flow through impact across the entire national economy. There are good public policy grounds for conducting further research and economic modelling into the viability of further substantial increases in the registration turnover thresholds (presently $75,000 except for not-for-profits for which the threshold is $150,000). It is now widely accepted in various taxation jurisdictions globally that goods and services taxes and other VAT style taxes are highly regressive in terms of compliance cost – that is, compliance cost per dollar of tax revenue raised generally decreases as the size of the reporting entity increases.

Many micro businesses presently caught in the GST net by the current registration turnover thresholds would, if the thresholds were increased, elect to deregister. Many new micro business startups which would (under present rules) be required to register would never register if the thresholds were increased. Major increases in the registration turnover thresholds may not be adverse to revenue or alternatively may not be particularly costly from a revenue perspective (particularly given the productivity benefits flowing from reduced taxation compliance cost). If supported by modelling then the NIA would recommend that thresholds be increased.

GIC remission

The circumstances under which GIC may be remitted should be broadened. Given the punitive levels at which the GIC is set there is an urgent need to ensure the GIC is applied only in circumstances where punishment is indeed warranted. The present remission guidelines do not provide sufficient scope for remission in circumstances where the Commissioner has been tardy in issuing rulings and other advice to clarify genuine areas of uncertainty in the application of the GST law. Furthermore, in circumstances where the ATO have given a taxpayer conflicting advice on the requirements for GST de-registration the remission guidelines provide an insufficient basis for remission of GIC in cases where the amount of GIC would have been lower had the correct advice been provided by the ATO in the first instance.

Examples from members in support of the above where the penalty system appears arbitrary include a situation where there may be a $110 monthly late lodgment penalty for BAS's, applied irrespective of the amount of the relevant debt. A taxpayer may pay a $120 debt on time but forgot to lodge the BAS, and be penalised $550. The penalty would have been the same, regardless of the amount of the debt.

A scale in the level of penalties would be more equitable or alternatively a scale of penalties increasing over time. The current method of penalty imposition means that the penalties for not lodging the paperwork are greater than the penalties for not paying on time; this appears to be counter-intuitive to business practice and particularly in the micro business sector.

Records retention

There are existing records retention requirements in excess of 15 years in certain circumstances involving acquisitions in excess of $499,999 GST-exclusive and where there are subsequent changes in the extent of creditable purpose, under the provisions of Division 129 of the GST Act. The law should be changed to harmonise GST records retention requirements to bring them into line with the records retention requirements present in other tax laws – generally around 5 or 6 years. Taxpayers should not be required to keep GST records for periods of up to 15 years.

GST refunds

The current system does not permit a registered entity to provide GST refunds net of costs of provision of refunds but nevertheless claim back from the ATO the full amount of the GST refund once the (net) refunds have been provided to the consumers concerned. The practical effect of this is that many consumers entitled to GST refunds are being denied these refunds. We consider this to be against the public interest. The current system should be amended to incorporate certain provisions permitted by the ACCC for GST refunds relating to supplies made during the GST transition period (up to 30 June 2002) under powers provided at section 75AU of the *Trade Practices Act 1974*.

Lodgment pressures

We are advised that the deadlines for the lodging of Activity Statements are onerous and should be more flexible. This is illustrated in the table below.

The following reasons impact on the lodgment schedule:

- Time can be spent waiting for creditor invoices to be received and processed before work on preparing a BAS can be started.
- All monthly BAS returns are due on the 21st of the month and quarterly returns on the 28th except for December when an extra month is allowed.

	27th Previous month to 7th	8th to 19th	20th to 26th
Not end of quarter	wait for creditor invoices	process monthly BAS returns	
End of quarter	wait for creditor invoices	process monthly BAS returns	process quarterly BAS returns

- So in the months when there are no public holidays there are 12 days, less weekends, to process monthly BAS returns.
- If Easter falls during this period agents lose 2 days, and may also lose an extra day for say the Adelaide Cup or other similar events. Agents also lose the opportunity to take any extra leave to take advantage of the public holidays.
- While quarterly lodgers get an extra month for the December return, there is no extra time for monthly lodgers.
- Again this means that agents do not have the flexibility to take full advantage of public holidays at a time of the year when many businesses close down.
- Work-life balance becomes significantly more difficult.
- These timelines and impacts on work-life balance make it more difficult to find suitable staff.
- Managing a business becomes more complex because different work has to be found for half the month.

Potential solutions

We suggest building flexibility into the system by providing the following:

- An extra two weeks for monthly and quarterly BAS returns.
- Provision for agents to request additional time from the ATO for unusual circumstances, for example:
  - clients changing systems;
  - equipment malfunctions;

- staff illness (clients or agents); and
- rectifying mistakes detected during end of month/quarter checking.

- An extra month for monthly lodgers for December in line with quarterly lodgers.
- Allow agents to spread quarterly lodgments over other months to avoid a peak once every three months.

Reporting requirements

A system requiring more regular reporting forces taxpayers and businesses to consider their financial position more often and provides a more timely opportunity to find and rectify any errors.

We are advised that annual GST returns do not reduce the total workload, they only alter the timing. It is still the case that every transaction must be recorded. The discipline of quarterly returns can be beneficial for the client and eases the accountant's workload. It is easier to correct errors soon after they are made and much harder to identify them months in arrears.

If the ATO takes exception to the ratio set by the snapshot, what is its audit approach? Will the client have to write up his transactions in detail anyway? If this were to be the case, then it may as well be done more regularly from the commencement. This would also avoid the situation where the practitioner/tax agent is called upon to undertake 'emergency' work at an inconvenient time, especially during very busy periods.

The snapshot approach may have problems for any seasonal business. Some taxpayers may spend more in the last quarter of the year to be ready for the busy season starting on July 1. Expenses as a percentage of revenue in the June quarter is atypical, that is, they may be very high. Equally, the ratio in the September quarter may be the reverse of the June quarter with more revenue than expenditure.

The work to produce the snapshot could be done on a continuous basis. Clarification is needed around how the ATO will obtain its data. Some practitioners try to focus on labour only, that is, they encourage the client to obtain all the materials and only start work when everything is on site. They would be advantaged by using ATO ratios. Equally, they could do their snapshot in months where they have uncooperative clients and have to supply materials and thus have an unrepresentative ratio.

GST invoicing

We are advised there could be a considerable amount of misunderstanding about and potential abuse of the requirements surrounding GST invoicing.

We are not clear as to the ATO approach on this issue. The legislation is also unclear as to whether there is any requirement on the ATO to ensure correctness of the invoices from which they collect the GST.

One point which requires clarification is whether there is a scheme of arrangement/s in place such that some entities pay GST to the ATO on behalf of franchise holders who have been financed in their operations by the corporate entity and what compliance is carried out by the ATO around this process,

including which taxpayer/entity is liable to pay GST. This is an area which could warrant further consideration. The NIA would be pleased to discuss this matter further with the Board.

BAS Easy

The NIA recognizes that the BAS Easy proposal is aimed at reducing compliance costs for small business. Overall, the NIA provides in principle support for the proposal.

One of the benefits of BAS Easy is that it will make it easier for micro enterprises to operate without employing bookkeepers/accountants for purposes of BAS preparation. The micro businesses however will generally still need this type of support for purposes of income/company tax compliance. This should increase the GST compliance rate by reducing costs in some cases.

It may also increase compliance if there were alternative BAS forms based on the type or size of business. Feedback from small business operators who compile their own BAS reports suggests that a 'one size fits all' approach is inappropriate in this regard and that ATO products and forms should be developed for businesses of different sizes within the SME segment.

Potential problems with the proposal for micro enterprises are:

- Initial compliance – lodgment and payment could be affected by the significant difficulties often faced by businesses which attempt to complete their own BAS, and which keep delaying the completion due to a lack of understanding whilst also not being willing to pay for an accountant/bookkeeper.
- When they are finally completed, often at the demand of the ATO, the debt accumulated is great enough to apply significant pressure to their ongoing operation – and often the ultimate price (compliance cost) of bankruptcy is paid. This is a burden not only to the business owner but to society as a whole. The exploding debt levels of small business has been widely publicised and although, this problem is not a technical one, it may be beneficial in terms of educating businesses by providing an understanding of their financial position on an ongoing basis.Giving the assurance of no audits and allowing for capital items to be separately calculated may encourage those businesses to actually enter the system and declare cash transactions. Obviously this would be beneficial for the whole economy.
- Calculation compliance – there are many occasions where the business simply miscalculates. The new method obviously remains an option for those who want to use it and may remove the need to employ bookkeepers/accountants thus reducing the direct compliance cost whilst freeing up resources in this tight labour market.

  Basically, having estimates around the extent of the cash economy or those operating outside the system, could allow businesses which complete their own BAS some options that may give them more stability and assurance as to their financial position with the ATO. This could result in less debt (which is often unexpected by taxpayers) and lead to a more stable and smoothed cash flow. This would have obvious benefits for the public interest.

Which entities would be eligible to use BAS Easy

The present Simplified Accounting Method (SAM) system at Division 123 of the GST Act is limited to certain kinds of **retailer* and certain kinds of **small enterprise entity.*

The proposed BAS Easy would be limited to 'small businesses' - see paragraph 2.3.20 (below) of the relevant Board of Taxation Issues Paper.

For these purposes it is suggested that the enabling legislation adopt a broader definition of 'small business', which is that:

*.. the entity has a *GST turnover which does not exceed the *small enterprise turnover threshold.*

This is a broader definition than is presently provided for at subsection 123-7(1) of the GST Act. Subparagraph 123-7(1)(a) of the GST Act relies on the definition of **small business entity* which is provided at subsection 328-110(4) of the *Income Tax Assessment Act 1997* (ITAA 97) which in turn relies on the definition of **aggregated turnover* in ITAA 97 which in turn relies on the definition of **annual turnover* at section 328-120 of ITAA 97.

Basing the test upon **GST turnover* as defined at section 195-1 and subsection 188-10(2) of the GST Act means that input taxed and certain other types of supplies are not counted as turnover. Use of this test would increase the number of entities entitled to apply BAS Easy.

It should be noted that the take up rate of SAMs by taxpayers has thus far been very low – we refer to paragraph 2.3.12 of the Issues Paper. It would be preferable if the proposed BAS Easy approach could be more widely targeted to allow for greater take up by businesses. Using the proposed broader test for 'small business' for these purposes, based upon **GST turnover*, would likely increase the take up rate of BAS Easy and permit a larger number of entities to enjoy reduced compliance costs without any unreasonable compromise to revenue.

The present SAM arrangements at Division 123 of the GST Act are restricted to cases where the Commissioner makes a determination and specifies the kinds of small businesses to which the SAM is available.

In the Board of Taxation Issues Paper it is unclear whether all small businesses that are under the $2 million **small enterprise turnover threshold* will be entitled to apply BAS Easy or whether the arrangements would be more akin to the current Division 123 where the Commissioner must make case by case determinations. It would be helpful if this point could be clarified in the Board of Taxation report. The NIA suggests that all small businesses that meet the threshold test should be entitled at their election to apply BAS Easy rather than have an arrangement where the Commissioner must first make a determination as to which types of small businesses may apply BAS Easy. This is not to suggest that Commissioner's powers to make determinations to specify SAM methods (eg snapshot or business norms methods) should be constrained in any way.

Contact - The National Institute of Accountants

NIA Head Office

Level 6, 555 Lonsdale Street
Melbourne Victoria 3000
Australia
Tel: 61 3 8665 3100
Fax: 61 3 8665 3130
Email: natoffice@nia.org.au
Website: www.nia.org.au

NIA Divisional Offices are located in the following cities:

Melbourne
Sydney
Brisbane
Adelaide
Hobart
Perth
Canberra

The NIA also has offices in:

Kuala Lumpur
Hong Kong
Beijing

For enquiries within Australia call 1800 625 625 or your nearest Divisional Office.
International enquiries can be directed in the first instance to the NIA head office.