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

Dear Sir/Madam,

Re: Review of the legal framework for the administration of the GST

Set out below is my submission for the purposes of the review of the legal framework for the administration of GST. I have confined my comments to questions 1.4 and 1.5.

Q1.4

Do foreign entities find the process of registration, cancelling registration, refunding and remission of GST easy to comply with? If not, how can the process be simplified and improved? Are there any anomalies that exist? If so, what changes are required to address them?

Foreign entities **do not** find the process of registration, cancelling registration, refunding and remission of GST easy to comply with. I am well qualified to make this observation, as my business, EasyGSTrefunds Singapore, helps arrange for non-residents to be registered for GST.

When the GST was introduced, Parliament's intention was to allow for the registration of non-residents – otherwise non-residents would find the cost of doing business with Australia would increase overnight by 10%. However, the current administrative requirements for GST registration effectively deter most non-residents from registering for GST. As a result, this penalises Australian businesses by making their goods and services less cost-competitive in the eyes of non-residents.

The process of registration can be simplified and improved. It is not necessary for me to outline the current administrative requirements to be met before the ATO will register a non-resident for GST, as you no doubt have that information on hand. What follows are some comments under three headings regarding specific aspects of the process.

Certification of documents

The requirement that each of the directors of a non-resident company present their passports and drivers licence for certification at the nearest Australian embassy, high commission or consulate is a draconian requirement. The question must be asked: how many Australian businesses would register for GST if there was a requirement that each director present his passport and drivers licence for certification in Canberra? It is submitted that most Australian businesses would be deterred by this requirement and yet the equivalent of this is being required of non-resident companies.

In some instances, it is not necessary for the directors' identity documents to be certified at an Australian embassy, high commission or consulate. This is the case where the relevant country is a party to the Hague Apostille Convention. For example, the directors of a US company can have their documents certified by office-holders in respect of certain Courts. By contrast, Canada is not a party to the Hague Apostille Convention. Hence there is a clear anomaly between the position in Canada and the position in the United States.

To address this, a more flexible certification requirement should be introduced, whereby (regardless of the applicant's country) documents could be certified by a local solicitor, Justice of the Peace or the clerk of any Court. The applicant for registration could be required to provide full contact details for the relevant solicitor, Justice of the Peace or clerk, allowing for subsequent verification by the ATO.

Multiple identify documents

At present, the requirement for directors to provide both a passport and a drivers licence also detracts from the ease of compliance for non-residents. Surely a certified copy of a passport is enough of a compliance burden to impose on each director (not to mention that the certification charges are levied per document). Requiring both a passport and drivers licence is overkill and to address this, the requirement should be relaxed to enable a certified passport to suffice.

Australian resident public officer

Recently the ATO has also added a new administrative requirement for non-resident companies seeking to register for GST. The ATO now requires that a non-resident company provide details of its "Australian resident public officer". It is open to question as to whether it would be possible to devise a more difficult requirement to impose on non-resident companies. By definition, the vast majority of non-resident companies do not have an Australian resident public officer. This requirement flies in the face of Parliament's intention, as noted above, that non-resident companies should be able to register for GST.

The ATO appears to have added this new administrative requirement based on the legislative requirement that all Australian resident companies must have a resident public

officer. However, for a non-resident company that merely purchases Australian goods and services but does not carry on business in Australia, there is no legislative requirement for such a company to have a resident public officer. If Parliament has not imposed such a requirement on non-resident companies, the ATO should not seek to do so through the administrative processes that it implements.

To address this most serious barrier to registration for GST by non-residents, the requirement to provide details of an Australian resident public officer should be abandoned.

Q1.5

Are there any factors that discourage foreign entities from registration? If so, what change should be considered?

The factors that discourage foreign entities from registration are discussed above. So too are the changes that should be considered.

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