



SUBMISSION BY THE
Housing Industry Association

to the
Department of the Treasury
on the
Review of the Legal Framework for the
Administration of the GST
September 2008

Comments are addressed to:
GST Administration Review
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Introduction

The Housing Industry Association (HIA) welcomes the opportunity to provide this submission in relation to the review that is currently being undertaken into the legal framework of the administration of the Goods and Services Tax (GST).

The majority of HIA's membership consists of small to medium-sized enterprises. An important segment of HIA's membership is the "Business Partner Network", which is comprised of those HIA members who are predominantly involved in the administrative side of running a building businesses. HIA has sought feedback from these members to enable it to make submissions which focus on the practical ramifications of this review.

BAS Easy and the Residential Construction Industry

The proposed BAS Easy is part of a wider reform that is aimed at enabling small businesses without GST-free transactions to elect to apply an agreed ratio in order to determine input tax credits. It is therefore designed to reduce the complexity of GST calculations and minimise reporting requirements for small business.

These measures will not assist small business within the residential construction industry for a number of reasons.

No GST-Free Transactions

It cannot be said that small businesses within the residential construction industry are "without GST-free transactions", as payments for charges such as approval fees and levies feature heavily in a builder's (as opposed to trade contractor's) cashbook.

The Use of Ratios

The use of one of two ratios, being either the “Business Norms Method” or the “Snapshot Method”, would only of benefit to those small businesses that have a predictable and/or homogeneous flow of sales and inventory. Such behaviour is rare for a business that operates within the residential construction industry (whether as a builder or as a trade contractor).

There are a number of factors at play, which include fickle levels of demand, unpredictable costs of building materials and the fact that a number of pieces of legislation deem contractors who work regularly for one builder to be an employee of that builder for the purposes of the particular piece of legislation (whether it be for PAYG withholding, superannuation, pay-roll tax or workers’ compensation).

In addition, it cannot be said that business activity that is carried on within a particular segment of the industry is comparable between operators who carry on business within that segment (howsoever described). Therefore, any attempt to apply a benchmark to such a segment within the residential construction industry would result in applying a flawed methodology. To take a simple example, a painter may be required to include the cost of paint in the contract price for one job and yet be required to omit it for another. This is not uncommon, especially where the client is a builder who prefers to source all of the building materials that are required for a particular job.

A related concern is the application of a description to a business category where the description is too wide and therefore, would fail to accurately reflect the true nature of the business activities being carried out by those businesses falling within the category’s description.

Given the above, HIA has real concerns that any attempt to regulate or predict the type of business activity that is carried on by a particular type of building business may very well lead to the making of false assumptions and the misapplication of resources on the part of the Australian Taxation Office when carrying out compliance activity in reliance upon these assumptions.

Using Ratios for New Businesses

The adaption of BAS Easy measures for new businesses is a sound concept and will go a long way to assisting some types of small businesses (for example, in the retail industry) in a practical and effective manner.

However, insofar as it relates to the residential construction industry, HIA submits that it would be inappropriate for new building businesses to adopt such an approach, as it may hinder rather than help such a business. HIA's reticence to adopt this aspect of BAS Easy is due to the fact that, given the vagaries of the business environment within the residential construction industry, a new business in this industry may be lulled into a false sense of security as to the progress of their business when applying a ratio. In other words, HIA is concerned that this measure may result in owners and operators of new building businesses failing to pay adequate attention to the actual progress of their new business.

Suggestions for Simplification of Compliance

Worksheets

It would greatly assist small business if the ATO provided more documentation in the nature of worksheets (similar to the ATO's "Tax Pack").

Taking GST thresholds as an example, there are different types of thresholds (and different ways to calculate such thresholds) depending on their purpose. A worksheet that illustrates how to calculate each type of threshold (and gives an explanation regarding the use of each type of threshold) would be an invaluable aid to small business, both from an educational and from a compliance point of view.

Checking ABN Numbers for Validity and GST Registration Status

Sub-contracting is a common feature of the residential construction industry. The sheer volume of sub-contractors alone has meant that the requirement to check a supplier's ABN for validity and GST status is particularly onerous.

A practical solution would be for the ABN number to have a prefix or suffix that identifies a supplier's GST status. It could be similar to the system that is currently used with respect to assigning CAC numbers to an ABN where the taxpayer has been placed into external administration.

Suggestions for Government Programs

It has been almost ten years since the education campaign relating to the introduction of GST took place. Whilst not suggesting that there is a need for a similar type of campaign to be undertaken, HIA nevertheless submits that it would greatly assist businesses (particularly new businesses) if a number of government programs aimed at educating business in relation to GST compliance were undertaken.

Two such programs that would greatly benefit building businesses would be in the nature of "GST Basics" and "How to Use Accounting Software for GST Reporting".

Conclusion

HIA commends the initiative shown by the government in relation to this review and the formulation of the proposed BAS Easy initiatives and is eager to assist the government in finding a similar solution for small businesses within the residential construction industry.

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