A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 3) 2000 No. 89

EXPLANATORY STATEMENT

STATUTORY RULES 2000 No. 89

Issued by the authority of the Assistant Treasurer

A New Tax System (Goods and Services Tax) Act 1999

A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 3)

Section 177-15 of the A *New Tax System (Goods and Services Tax) Act 1999* (the GST Act) provides that the Governor-General may make regulations prescribing matters required to give effect to the GST Act.

Paragraph 33-15(b) of the GST Act authorises the making of regulations to prescribe the circumstances, the period, the place and the manner in which the goods and services tax (GST) can be deferred on taxable importations.

The purpose of the amending Regulations is to prescribe a system under which importers may defer payment of GST on taxable importations entered for home consumption. In the absence of a deferral mechanism, importers would be at a cash flow disadvantage in regard to the GST element of the supply price compared with businesses obtaining goods locally.

The Regulations will:

- prescribe the processes and requirements for an entity to seek approval to defer payment of GST for taxable importations entered for home consumption (within the meaning of the *Customs Act 1901);*

- require the deferred amount of GST to be accounted for on the entity's next monthly Business Activity Statement (which includes the GST return);

- require the payment of GST on taxable importations to be made to the Commissioner on or before the 21st day after the end of the month in which the liability for the GST arose;

- provide that an entity's approval may be revoked if it no longer meets the requirements for approval;

- provide that an entity whose approval was revoked may reapply for approval if it meets the requirements for approval;

- provide that entities may object to decisions taken by the Commissioner of Taxation relating to decisions to refuse an application, revoke an entity's approval or require the entity to provide a bank guarantee as an additional requirement for subsequent application for approval; and

- define terms relating to the deferral process.

Details of the Regulations are set out in the Attachment.

A Regulation Impact Statement is attached.

The Regulations commence on gazettal.

ATTACHMENT

A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 3)

Regulation 1 names the proposed Regulations *A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 3)*

Regulation 2 provides that the Regulation commence on gazettal.

Regulation 3 provides that the *A New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 3)* are amended by Schedule 1.

Schedule 1

Item 1, proposed sub-regulation provides for the deferral of payments of amounts of GST on taxable importations.

Item 2, proposed sub-regulation 33-15.02 states how an entity may apply for approval to defer payments of GST on taxable importations.

Item 3, proposed sub-regulation 33-15,03 states the requirements for approval to defer payments of GST on taxable importations and the circumstances where the Commissioner may refuse an entity's application for approval. The proposed subregulation defines the term "related entity" used in the regulations.

Item 4, proposed sub-regulation 33-15.04 states that a bank guarantee may be required for a subsequent application for approval if a previous approval has been revoked. The subregulation sets out the method of calculation of the bank guarantee. In the event that the entity fails to pay the deferred GST on imported goods when due, the bank must pay to the Commissioner the lesser of the overdue amount and the guarantee.

Item 5, proposed sub-regulation 33-15.05 states the details that must be included in the written notice given to an entity about the decision on the application.

Item 6, proposed sub-regulation 33-15.06 states that approved entities must deal electronically with Customs and the Commissioner.

Item 7, proposed sub-regulation 33-15.07 specifies the due dates for deferred payments.

Item 8, proposed sub-regulation 33-15.08 describes the circumstances in which approval may be revoked.

Item 9, proposed sub-regulation 33-15.09 provides an entity with objection rights against decisions taken by the Commissioner.

Example

Anne-Marie and Wendy operate a company which imports equestrian supplies. The company is approved to defer GST on taxable importations. On 15 August 2000 the company imports leather saddles from Germany and enters them for home consumption. The value of the taxable importation is $100,000 with a GST liability of $10,000. As the company is approved to defer GST, it can defer the $10,000 GST payment until the 21st of September 2000 when the company's August 2000 Business Activity Statement is due and the net amount of GST for that month is payable.

The following diagram summarises the central concepts of the deferral of GST on imported goods.

GST deferral on imported goods

Entry for home consumption lodged

Is importer approved to defer GST?

No

Customs collects GST before releasing goods to the importer

Ye

Goods are released to the Importer

Importer accounts forGST on next Busines Activity Statement

Deferred GST payment on imported Goods

Regulation impact statement

1. Policy objective

The basis for the Government's policy for the deferral of payment of GST on imported goods is to alleviate any cash flow disadvantage that may otherwise occur in regard to the payment of GST by registered businesses on imported goods compared with goods obtained locally.

The GST legislation requires GST to be paid by importers at the time they wish to take possession of the goods. If the same goods are obtained locally there will generally be a period of credit allowed before the payment for the goods (including GST) is made to the vendor. In the absence of a deferral scheme, registered businesses importing goods would be at a cash disadvantage in regard to the GST element compared with goods obtained locally.

2. Implementation Options

Only one option is for consideration. The Deferred GST Scheme will:

* Commence on 1 July 2000;

* Be open to all registered importers subject to their meeting certain eligibility criteria (including monthly tax periods and lodgment of Business Activity Statements via the Internet);

* Allow deferral for between 21 and 51 days depending on when the goods are imported and when Business Activity Statement net liabilities are paid.

3. Assessment of impacts (costs and benefits) of each implementation option

3.1 Impact group identification

Importers

The scheme will alleviate any cash flow disadvantage that may otherwise occur in regard to the payment of GST by registered businesses on imported goods compared with goods obtained locally. It is anticipated that around 25,000 importers (15% of all importers) will seek admission to the scheme and that deferral arrangements will cover more than 95% of total business importations by value. This estimate is based on the assumption that the following entities would apply to participate in the scheme:

* 700 "large" importers who each import > $20m value of goods each year;

* 17,500 or 50% of the 35,000 importers who import between $500,000 and $20m each year; and

* 6,800 or 5% of the remaining importers.

ATO

The scheme will have a minor impact on the ATO. It does not need new IT systems and only requires modifications to existing computer software. A small number of resources are needed for the implementation and the ongoing management of the scheme.

Customs

Customs will need to modify their IT systems to allow the GST to be deferred and for data to be transmitted to the ATO.

3.2 Analysis of the costs and benefits associated with each implementation option

Compliance costs

The scheme will alleviate a cash flow disadvantage that may otherwise occur in regard to the payment of GST by registered businesses on imported goods compared to goods obtained locally.

There will be minimal compliance costs for importers wishing to participate in the scheme. Importers can apply to defer GST made by completing a form online using the Internet.

A small number of importers will need to make a commercial decision as to whether the benefits of entering the deferral scheme are sufficient in their particular circumstances to offset the loss of entitlement to quarterly lodgment status.

Some importers, those who currently do not have Internet access, will bear a cost to obtain Internet access.

Once approved to defer GST there are no additional compliance costs for businesses. The linking of the deferral scheme to the lodgement of the Business Activity Statement means that businesses will not be required to prepare or lodge separate documentation or make separate payments.

The compliance costs of importers entering the scheme will be reduced by the cash flow benefit they obtain from the scheme. The cash flow benefit, using a notional interest rate of 6%, is estimated to be about $40 million in 2000/01.

Administrative costs

The tax proposal is estimated to incur the following administrative costs:

Cost Type Initial year Subsequent years

1999/2000 2000/01 2001/02 2002/03 2003104

Business line

resource costs

$2.176m $2.379m $1.990M $2.032m $2.088m

Of which:

Salary $1,523,000 $1,615,000 $1,376,000 $1,415,000 $1,455,000

TIA $80,000 $30,000 $20,000 $20,000 $20,000

Corporate

'flow-ons' $573,000 $734,000 $594,000 $597,000 $613,000

Total

Admin costs $2,176,000 $2,379,000 $1,990,000 $2,032,000 $2,088,000

Government revenue

The concession provided to business will have an impact on when the government receives the payment of GST on taxable importations. Payment of GST will be deferred on taxable importations for a period of between 21 and 51 days depending on when the goods are imported and when the Business Activity Statement net liabilities are paid. It is estimated that there will be a deferral of revenue from 2000101 to 2001102 of about $600 million.

Economic impact

In the absence of the GST deferral scheme, importers may, due to the cash flow impact, be faced with higher costs if importing goods rather than purchasing them domestically. This may place an overseas supplier at a competitive disadvantage relative to a domestic supplier.

To the extent that businesses are able to participate in the scheme, then it is expected that such a distortion will be avoided.

Consultation

Consultation was undertaken with the following interest groups:

* Importers

* Custom brokers

* Freight forwarders

* Importers' associations

* A number of industry groups

Overall, industry feedback through the consultation process was very supportive. None of the concerns raised by industry stakeholders warranted a change to the basic design of the scheme.

4. Conclusion

This proposal will alleviate a cash flow disadvantage that may otherwise occur in regard to the payment of GST by registered businesses on imported goods compared with goods obtained locally.