

BDO Kendalls

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Over the GST rainbow

The GST law has been in a constant state of change since it was implemented, primarily as a result of GST rulings, cases and legislative amendments. In this article, we take a look at the changes likely over the next few months.

The Tax Office has released more than 200 rulings, determinations and other public documents dealing with GST. The early rulings covered many of the basic areas of GST. In its more recent rulings, the Tax Office has attempted to tackle more complicated GST areas, a good example being the recent ruling on supplies (refer the November 2006 edition of this GST News). Nevertheless, the Tax Office is yet to rule on a number of crucial GST issues.

Recent months have seen little or no GST activity by the Tax Office with regard to its Public Rulings Program. Only two GST rulings have been issued since November 2006. Previously, the Tax Office issued an updated public rulings program every month. This program included details of a number of crucial forthcoming rulings, including those dealing with the GST-free export provisions (the draft ruling was released in March 2006), securitisation arrangements, property transactions for partnerships, cancellation fees and the financial supply provisions. Many of these rulings were originally intended to be published more than eighteen months ago (according to earlier versions of the Program). Perhaps it is not surprising then that the Tax Office stopped publishing the Program in February this year and removed it from its website. While part of this delay in releasing rulings is attributable.

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Review of the self-assessment system

During March, the Assistant Treasurer announced that the Board of Taxation would conduct a review into the scope to apply consistent self-assessment principles across all federally administered taxes (including GST). Many of the GST administration rules differ from those in income tax and other taxes. For example, many taxpayers assume that a GST private ruling will always protect them. However, this is not the case, since a later public GST ruling will override an earlier, inconsistent private ruling.

Consistent rules across all federal taxes would provide more certainty for taxpayers and reduce compliance costs. This is welcome news and we await the results of the review.

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to the Tax Office focussing on other issues (such as superannuation), it is also indicative of the complexity of these issues and the difficulty of obtaining final agreement within the Tax Office.

The Tax Office and Treasury are keen to implement legislation to fix a number of GST problems. However, we understand that the Government has placed a moratorium on GST legislative changes until after the upcoming Federal election. Stay tuned for a raft of GST changes early next year. In particular, further changes are likely to be made to the GST property rules.

We also understand there are a significant number of GST cases making their way through the courts. These cases deal with a range of GST issues, although once again, property issues are likely to figure prominently.

In previous issues of the GST News, we highlighted the Tax Office's published "risk areas". In particular, the Tax Office has made apparent its intention to focus on taxpayer activities involving property transactions, aggressive tax planning and financial supplies, and the recovery of input tax credits. We note the outstanding GST rulings listed above correspond with these areas.

BDO Comment: It is important that clients keep up to date with new GST developments. We often come across taxpayers that have previously obtained a private GST ruling or advice on an issue and are not aware that the advice or ruling has been superseded by a later public ruling or legislative change. The costs associated with failing to keep up to date are significant in terms of penalties and interest.

GST March releases

There were a number of new GST developments during the past month. First, the Tax Office issued a Decision Impact Statement concerning *Saga Holidays Limited v FCT* [2006] FCAFC 191 (refer GST News February 2007). The statement indicates that the decision of the Court is consistent with the Commissioner's rulings previously issued on the topic. Subsequently, the GST treatment endorsed by the Court has been confirmed by legislative amendments.

The Tax Office also issued Taxpayer Alert TA 2007/1, (Lease by a charitable institution to an associated endorsed charitable institution designed to gain input tax credits). The Alert sets out the Tax Office's view as to when the GST anti-avoidance provisions will apply to ensure that certain supplies of accommodation to residents by charitable institutions are not GST-free. The Tax Office's website has also been updated to discuss the Alert.

In addition, the Tax Office issued a media release concerning a Newcastle man who was sentenced to eight years jail by the Downing Centre District Court for GST fraud. It also withdrew a number of Interpretative Decisions during the month.

If readers would like more details of any of these documents, please contact the BDO office in your State.

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