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A New Tax System (Commonwealth–State Financial Arrangements) Amendment Bill 2003

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I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

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No. 72 2003–04

A New Tax System (Commonwealth–State Financial
Arrangements) Amendment Bill 2003

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14 January 2004

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A New Tax System (Commonwealth–State Financial Arrangements) Amendment Bill 2003

Date Introduced: 4 December 2003

House: House of Representatives

Portfolio: Treasury

Commencement: Royal Assent

Purpose

The purpose of the Bill is to authorise the Commissioner of Taxation to make necessary accounting adjustments to the amount of goods and services tax (GST) revenue collected by the Commonwealth and provided to the States and Territories. The proposed method for revenue adjustments has been agreed to by the States and Territories.¹

Background

Arrangements for Commonwealth general purpose payments to the States (including the Territories) entered a new phase with the introduction of the goods and services tax (GST) on 1 July 2000.

The *A New Tax System (Commonwealth-State Financial Arrangements) Act 1999* (the Act) is the legislative authority for general purpose payments. The Act builds on and incorporates, as a Schedule, the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations (IGA). The IGA sets out the terms under which GST revenue is paid to the States. It was endorsed by the Commonwealth, State and Territory heads of government in June 1999.

The main features of the IGA are:

- the Commonwealth must pass all GST revenue (net of administrative costs) to the States
- the States may spend the GST as they wish

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- the Commonwealth has guaranteed that in each of the transitional years following the introduction of tax reform, no State will be worse off than had the reform not been implemented. To fulfil this commitment, each State is entitled to receive a Guaranteed Minimum Amount (GMA)
- the Commonwealth meets the difference between each State's GMA and GST entitlement in the form of budget balancing assistance (BBA)
- the inter-State allocation of the GST revenue is based on the relativities calculated by the Commonwealth Grants Commission based on the fiscal equalisation principle²
- the States undertook to abolish a number of taxes, reduce gambling taxes and administer a new uniform First Home Owners Scheme, and
- the establishment of the Ministerial Council to oversee the implementation and operation of the IGA.³

One technical and practical problem with the current Act is that it operates in a way that excludes GST refunds made by the Commonwealth under the Tourist Refund Scheme (TRS). This means that marginally more GST revenue is provided to the States than is actually collected. TRS allows travellers going overseas to recover GST (or Wine Equalisation Tax) paid on eligible goods purchased in Australia and then taken overseas in their hand luggage. The Bill rectifies this matter (and some other technical anomalies) by allowing the Commissioner of Taxation to account for all GST refunds when making a determination of GST revenue.

The Government's Policy

The basis for the legislative policy that underpins this Bill is to ensure that the GST arrangements with the States operate in the way originally intended. As noted above, the States and the Territories have agreed with the measures proposed by the Bill.⁴

Main Provisions

Schedule 1—Amendment of the *A New Tax System (Commonwealth–State Financial Arrangements) Act 1999 (the Act)*

Part 1—Taking refunds into account in determining GST revenue

The current subsection 5(4) of the Act allows adjustments to the amount of GST to be provided to the States and Territories to take into account certain refunds. The current subsection 5(6) of the Act provides an interpretive definition applicable under section 5.

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Items 1 and 2 in Schedule 1 of this Bill broaden the category of refunds that may be taken into account by the Commissioner of Taxation e.g. TRS.

It is also noted that the proposed new definition in **Item 2** of a *GST refund provision* contains a reminder of the effect of the current section 11 in the Act (i.e. section 11 requires the agreement of the States to any changes to the GST base). These new provisions do not affect the existing limitation on the creation of new GST refund provisions found in section 11 of the Act, in particular, the requirement for agreement of the States. Section 11 includes the following restrictions:

- 11 (1) The rate of the GST, and the GST base, are not to be changed unless each State agrees to the change. Such changes to the GST base should be consistent with:
 - (a) maintaining the integrity of the GST base; and
 - (b) administrative simplicity; and
 - (c) minimising compliance costs for taxpayers.
- (2) In particular, but without limiting subsection (1), a Minister may only make a determination under the GST Act, or the *A New Tax System (Goods and Services Tax Transition) Act 1999*, that affects the GST base if the determination is made in accordance with a procedure to which all of the States have agreed.

Item 3 is necessary since the amount of GST revenue is determined in June each year, based on an estimate of revenue for that particular month. The determination for the subsequent year makes an adjustment to take into account the amount actually received at the end of the previous June.

Paragraph 1 ensures that the proposed amendment is not taken into account when adjusting for the estimate made in June the previous year, when the Bill had not commenced.

Paragraph 2 recognises that processing the effects of the increase in GST refunds on GST revenue will take time. If the Bill commences in June, the month in which the GST revenue is determined, it may delay the Commissioner's determination beyond the mandatory deadline. Hence, **Item 3** ensures that, if the Bill commences on or after 1 June, the new refunds will only be taken into account in the following and later years.

Part 2—Timing of determinations

Items 4 to 9 adjust timelines for the dates that apply to the filing of relevant determinations that calculate such matters as hospital grants and each State's population. In turn, the data is then used for the preparation of the determination of GST revenue. Unfortunately, some of the current statutory deadlines in the scheme technically coincide. This problem has been overcome by informal agreement for the 'input' data

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determinations, used to prepare the determination of GST revenue, to be brought forward. The Bill amends the statutory deadlines to ensure that the existing working arrangements are formalised.

Item 10 has the same effect as **Item 3** above.

Part 3—Residual adjustments for GST transitional years

Schedule 1 to the current Act contains transitional arrangements for the first 3 GST years and other GST years that are prescribed. Under the current Act, the Treasurer makes a determination each year of the Guaranteed Minimum Amount (GMA) for a State. The Commissioner of Taxation makes a determination of GST revenue. As noted above, these determinations are made in June and then adjusted the following June for under or overestimate once the actual outcomes for a particular year are known.

The difference between GMA and GST is referred to as Budget Balancing Assistance (BBA). A State's BBA may need to be adjusted in some cases.

Item 12 inserts a **new Clause 7** in Schedule 1 to the current Act. The **new Clause 7** will allow 'residual adjustments' to be made to amount paid to a State or Territory for a GST year, as a technical refinement to the existing arrangements. These amounts will be known as Residual Adjustment Amounts (RAAs).

Concluding Comments

The proposed amendments made by this Bill are technical refinements to the existing GST scheme.

Endnotes

- 1 *Explanatory Memorandum, A New Tax System (Commonwealth–State Financial Arrangements) Amendment Bill 2003*, p. 1.
- 2 This principle is that all State governments should be able to provide services at the same standard if they make the same effort to raise revenue from their own sources and operate at the same level of efficiency.
- 3 The summary has been drawn from Richard Webb, 'GST Revenue and Budget Balancing Assistance to the States', *Research Note* No. 33, 2001–02, Department of the Parliamentary Library, 19 March 2002, at: <http://www.aph.gov.au/library/pubs/rn/2001-02/02rn33.htm> .
- 4 See Note 1, above.

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