

GST/ABN UPDATE

BAS changes

In our last circular, dated 30 March 2001, we summarized information regarding the streamlining of the BAS and the extensions in the lodgement dates.

The revised BAS formats for the fourth quarter are already available. We confirm that the best option is to continue as before, if you are coping adequately with the way you were reporting your GST.

Imputation credits

The ATO have recently sent you a circular and form about the claiming of imputation credits. This will only affect some Churches and Para-Church Organisations. If you receive income direct from investments in Shares, Trusts or Managed Funds, the ATO advice regarding imputation credits will be reasonably clear. However, some may receive income by way of distributions from discretionary Trusts. There may be imputation credits attached to those discretionary Trust distributions. If you are aware that there are imputation credits available from such a source, you may seek a refund of those credits. You will normally receive a refund of the full amount of the imputation credits. However, if you have any outstanding tax liabilities, the ATO will first offset the refund against any amounts owing.

Subscriptions

Some entities are charging GST on subscriptions unnecessarily. Where your charge is less than 50% of the GST-inclusive market value or less than 75% of the cost of the supply you should not collect GST.

Insurance

With general insurance, you can claim input tax credits for the GST included in the insurance premium. Ensure you inform your insurer of the extent of your entitlement (normally 100%). You must do this no later than the time you make a claim under the insurance policy. Then you will not have to remit GST to the ATO on any settlement you receive.

You can also claim input tax credits relating to the cost of replacing or repairing goods paid for from the insurance settlement.

Motor vehicle changes

In the Federal Budget last month, the Government announced that full credits would be available on motor vehicles effective from 23 May 2001. This means that full credits for GST are available on any motor vehicles purchased now.

The rules relating to compulsory third party insurance remain the same i.e., no claim for input tax credits is available until 1 July 2003.

Fringe benefits GST credits

The ATO has now issued a ruling (GSTR 2001/3) that gives greater clarity to the claiming of GST credits on Fringe Benefits payments.

Note:

- In order to claim the input tax credit on an expense payment benefit, the employer must have an original tax invoice;
- In the case of a reimbursement, it must be for a particular expense i.e., the employer cannot claim input tax credits relating to items on a credit card

statement if the arrangement is that the employer pays the balance on the statement at the end of the month. The credits can only be claimed against individual transactions;

- GST is **payable** on any employee contribution to the employer for the supply of the benefit.

FBT gross up rules

The ATO has issued a ruling (TR 2001/2) to explain the new FBT gross-up rules for Reportable Fringe Benefits and calculating the \$30,000 concession threshold. This new gross-up formula is necessary to take into account the effect of claiming input tax credits on some fringe benefits.

Fringe benefits which carry an entitlement to input tax credits are known as 'Type 1' benefits and are grossed-up by 2.1292. Other fringe benefits are 'Type 2' benefits and continue to be grossed-up at the old rate of 1.9417. **Note** that the gross-up rate to be used for Payment Summary (the old group certificate) reporting purposes is 1.9417 in all cases. (There is more than one rule!)

A reminder that Churches providing benefits to religious practitioners do not have to report the value of fringe benefits provided. All other employers (including PBI's) have a reporting obligation when the taxable value (before grossing-up) of benefits provided is \$1,000 or more per employee. If the total grossed up fringe benefits exceed \$30,000 per employee, the Public Benevolent Institution (PBI) becomes liable to pay 48.5% tax on the excess over \$30,000.

ATO review of ITEC & DGR eligibility

- The ATO has recently commenced a sampling process with different charitable organisations to test their eligibility for their ITEC and/or DGR

status. Only some organisations will receive these questionnaires. Most of the requirements in the questionnaires are in themselves clear. Special comment seem warranted in respect to the following:

- The request for identification for the controlling Committee or Board includes a reference to “relevant qualifications of office bearers”. This is important for DGR's. The Committee of the DGR need to have some “status” within the local community. In this context, qualifications can refer to occupation where it is of significant standing within the community at large. Alternatively, it may refer to technical or professional qualifications. While the question is of lesser importance for ITEC, the question should still be answered in reasonable detail.
- Another question is “Describe how you consider your purposes and objects to be charitable”. The term “charity” has a specific legal meaning. It includes Trusts for the relief of poverty; Trusts for the advancement of education; Trusts for the advancement of religion; and Trusts for other purposes beneficial to the community. It should be sufficient for a Church to respond to this question by saying that its objects are the advancement of Christian religion.
- A further question enquires as to what barriers there are to prevent distribution of income or funds to members of the entity. This is a key question for ITEC purposes. There will often be a restrictive clause in the entity's Constitution to bar distribution of funds to members, except for payment for services rendered. Any incorporated entity would need such a restrictive clause. However there will be many Churches and some other entities that are not incorporated. Many of them will be relying on their affiliation with their Christian denomination for

legal status. Circumstances will vary. Where there is a barrier in the Constitution, the wording from the Constitution can be stated in response to the question. If there is no Constitutional barrier, the policy or practice of the organisation should be stated. It would also be timely to establish an appropriate “Not-For-Profit” clause in your Constitutional document if it does not already exist. The Charity Pack (p40) or Gift Pack (p41) publications from the ATO give appropriate examples. The provisions of a Not-For-Profit clause are different for a DGR and an ITEC entity. If needs be, we can provide some additional advice here.

The ATO also wants to know the name and address of the entity's independent auditor. The emphasis of the question is on the independence of the auditor. There will be many entities, particularly with Churches where the auditor is a member of the entity. Membership of the entity is not in itself a barrier to independence. The key issues are objectivity and there being no conflict of interest in the matter. If you require further assistance on the topic of professional independence, refer to CPA Australia's Code of Professional Conduct Professional Statement F1.



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