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SUBMISSION BY THE ASSOCIATION OF BRITISH TRAVEL AGENTS
INQUIRY INTO THE TAX LAWS AMENDMENT (2005 MEASURES NO. 1)
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A NEW TAX SYSTEM (GOODS AND SERVICES TAX ACT) 1999

ABTA is the leading travel trade association in the UK. We represent all the largest tour operators and travel agents trading in the UK. In particular, all operators selling Australian holidays are probably members of ABTA.

In this capacity, we are pleased to have this opportunity to comment on the proposals to implement new rules in Australia the result of which would be a requirement to account for Australian GST on all travel services sold by UK (and other) tour operators and similar selling Australia as a destination.

We have consulted our membership on the introduction of GST and the comments in this paper are based on the views of those consulted. Our comments can be seen as falling under three headings: Background, comprising a description of the European VAT regime and its interaction with the Australian GST regime; the impact of the requirement to charge GST and (the lack of) transitional measures.

BACKGROUND

We understand that GST is broadly the equivalent of VAT. We have had VAT in the UK since 1973 and in the past 32 years numerous practices, etc., have developed which make VAT, as it is applied to the tourism industry, a reasonably user friendly tax which does not prejudice the interests on inbound tourism to the UK.

The most important development was the introduction of the Tour Operators' Margin Scheme ("TOMS"). This was introduced by Article 26 of the European Union's Sixth VAT Directive and its use is compulsory for many operators in the travel sector. The effect of TOMS is to make many holidays and other travel services subject to VAT on the gross margin made (value added) by the tour operator; the VAT is payable in the member state in which the tour operator is established. VAT under TOMS is only payable on the margin because no recovery is allowed in respect of the VAT included within the purchase price of the bought-in components such as that included within charges from hotels, airlines, car hire companies and others.

In summary, the VAT accrues to both the EU Member State in which the holiday is enjoyed (by way of the VAT included in a tour operator's purchase price of services) and in the Member State in which the tour operator has performed its service of putting the package together (by way of the VAT included in its margin).

Importantly in the context of the proposals in Australia, the EU currently accepts that Non-EU based tour operators are not subject to EU VAT in respect of the margin although they will, as with an EU tour operator, not be able to recover the VAT included within the purchase price of services enjoyed in the EU such as hotels, e.g. an Australian operator selling a holiday in the UK (or elsewhere in the EU) would therefore not recover VAT on his costs but would not pay UK (or EU) VAT on his margin or selling price.

This reflects a reciprocal practice under TOMS whereby the margin achieved by an EU tour operator selling travel services enjoyed outside the EU is taxed at 0%, such that the only tax cost is in respect of the local tax included in the purchase price of the services.

We are not aware of any other significant destination for UK tourists which has introduced a requirement in any way similar to that proposed by Australia.

THE IMPACT OF A REQUIREMENT TO CHARGE GST

A combination of a requirement to pay GST at 10% on the Australian content of holidays and a disproportionately high compliance cost in terms of maintaining an Australian GST registration would inevitably lead to an increase in prices charged by operators or even deter them from selling packages to Australia.

The effect would be felt particularly by the bonded tour operating sector which compared to the DIY or self packaging market requires a level of margin sufficient to cover this relatively high cost as well as other consumer protection that such operators are obliged to give customers, i.e. the proposed regime could likely result in more UK tourists visiting Australia without proper financial protection, a consequence which we could not support.

TRANSITIONAL MEASURES

We understand that the proposed introduction of GST for foreign tour operators was announced on 10 February 2005 and that it is intended to apply retrospectively from the same date. We are strongly opposed to the immediate introduction of this new tax: margins made are already very small and cannot bear the retrospective collection of tax. It is only right to allow an introductory or transitional period during which tour operators can assess the impact of the tax and adjust brochure prices accordingly, and even assess whether they wish to retain Australia as a destination.

In the UK, we would anticipate a lead-in period of no less than 12 months to give operators the opportunity to assess the impact and revise prices, the budgeting of which takes place some considerable time before a holiday takes place.

For these reasons, even if GST is to be introduced, we strongly urge that a transitional period should be made available.

CONCLUSION

We would urge that the present proposal be modified along the lines of the proven EU model, with legislation amended to prevent GST recovery by those re-selling Australian hotels, car hire, etc.

Such legislation would ensure that for those parts of the package enjoyed in Australia, tax accrues in Australia. Conversely, the tour operator's service of putting the package together, for which the margin is payment, continues to fall within the tax net of the tour operator's place of establishment, where the benefit of this part of the service is enjoyed.

Furthermore, legislation such as this would be fully controllable by the Australian Tax Office, whereas EU experience shows that a registration requirement on non-established businesses is difficult if not impossible for the tax authority to control, which undermines the integrity of the legislation and fails to deliver the desired objective.

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