



Australian Government

The Treasury

20 August, 2008

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Mr John Hawkins
Secretary Senate Standing Committee on Economics
Senate
Parliament House
CANBERRA ACT 2600

Dear Mr Hawkins

Tax Laws Amendment (2008 Measures No. 3) Bill 2008

Treasury welcomes the opportunity to make a submission to the Senate Standing Committee on Economics concerning its inquiry into Schedule 2 of the abovementioned Bill relating to the restriction on GST refunds and time limits for recovery and refund of indirect tax.

The Institute of Chartered Accountants (the Institute) raised a number of issues in its submission to the Committee concerning the abovementioned Bill. The Institute has suggested that the Bill should be amended to correct drafting errors and give a better contextual basis for the interpretation of the amendments. In particular, the Institute has stated that the amendments may not accord with the Government's stated policy intentions of the amendments and may result in unintended consequences and uncertainty.

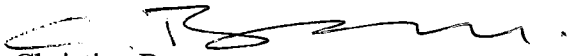
Treasury considers that the Bill does not contain any drafting errors and that it gives effect to the Government's stated policy intent. The suggestions made by the Institute relate principally to certain aspects of the operation of the restriction on GST refunds and time limits for recovery and refund of indirect tax that are outside the scope of these amendments. These matters are, however, within the terms of reference of the Board of Taxation's current review of the legal framework for the administration of the GST that was announced by the Government on 11 June 2008.

The submission made by the Institute suggests that proposed new subsection 105-65(2) may contain a drafting error because the amendment refers to "so much of any *net amount or amount of *GST as you have overpaid" rather than to the existing reference in the subsection 105-65(2)(a) of the *Taxation Administration Act 1953* (Tax Administration Act) to "so much of any *net amount or amount of *indirect tax as you have overpaid". The change in the amendment was intended and reflects that the restriction on refunds provision is intended to apply to restrict GST refunds consistent with existing practice. The legislation for the other taxes that are defined as indirect taxes, wine equalisation tax and luxury car tax, already contains separate restrictions on refunds of overpayments of those taxes so another reference in the Tax Administration Act is unnecessary.

The Institute's submission has suggested that the application provision for Schedule 2 would result in an anomaly by refreshing the period of review for certain affected taxpayers. Treasury does not consider that this is the case or that any anomalies will arise. The application provision follows standard drafting practice to remove any doubt that the amendments apply following the date the amendments have effect.

Thank you for the opportunity to make a submission. The contact officer for this matter is Mr Phil Bignell who can be contacted on (02) 62634372.

Yours sincerely



Christine Barron
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Indirect Tax Division