TCWA Priority News Bulletin (2001.08)
For urgent distribution to WA Taxi Operators

The Taxi Council of Western Australia is making you aware of these recent tax developments that may affect you. We stress that this is for information purposes only and should not be relied on. For all taxation matters, you should contact and seek advice from your accountant.

RECENT TAX DEVELOPMENTS

Taxation of Trust

The Government has given up, for now, on its attempt to tax trusts at the company tax rate. It has acknowledged that its proposed legislation isn't workable.

The Government has indicated it will consult small business and the farming industry to protect their legitimate business concerns while still attacking 'tax abuse'. But at this stage no timetable has been set for further 'reforms'.

An opposition coming into Government later in the year and desperate to fund its programs might be willing to pursue initiatives in this area.

GST

Vehicles:

A major benefit flowing from this year's Federal Budget has been the Government's decision to allow full Input Tax Credits to be claimed for all new vehicles purchased from budget night (22 May).

Under the previous GST rules no input Tax Credits could be claimed for new vehicles purchased up to 1 July 2001 and then only 50% could be claimed for vehicles purchased between 1 July 2001 and 30 June 2002.

So anyone planning acquisition of a new vehicle should ensure that lease and hire purchase rates reflect the saving on GST.

Cancelling Your GST Registration

Recent legislation changes now mean that taxi plate owners who inadvertently registered for GST even though their business turnover was below $50,000 and they do not drive the taxi can now seek to have their GST registration cancelled.

And such owners could request that the cancellation be back dated to 1 July 2000. But to have the Tax Office accept that cancellation, owners will need to:

- never held themselves out to other businesses as being registered for GST

- never have issued tax invoices or adjustment notes
- never paid net GST with every Business Activity Statement that has been lodged
- make a signed declaration to the Tax Office that these 3 requirements have been satisfied.

Realistically, there are unlikely to be any owners who could satisfy those conditions.

However, owners in this position could seek to have their registration cancelled from the start of the next tax period i.e. 1 July 2001 or 1 October 2001.

To apply to cancel registration owners would need to provide a signed declaration to the Tax Office advising that, say, from 1 October 2001 the owner:

- will not hold out to other businesses that the owner is registered for GST
- will not issue any tax invoices or adjustment notes
- will not claim any input tax credits, special transitional credits or indirect tax transitional credits

Applications should be made to:

The Commissioner for Taxation
Attention: Business Registration Services
P O Box 1198
NEWCASTLE NSW 2300

Make sure you quote your ABN, current business address and contact details.

Business Activity Statement

It appears the message that most businesses are, at the very least, finding the preparation of monthly or quarterly BAS's a drain on their valuable time is finally being heard by politicians.

Suggestions that the form can be "simplified" doesn't get to the heart of the problem – it's doing everything necessary to work out the exact amount of GST that's been collected and the input tax credits that are due.

It is surely a lot easier to only have to do that once a year when businesses have to finalise their accounts anyway. The proposal that GST could be estimated in the same way as the Pay-As-You-Go system works out the quarterly "income tax" payable on the BAS has a lot to commend it particularly for our industry where the relativity between gross revenue and GST payable would be relatively constant particularly for taxi drivers.

In an election year you might want to let your current and intending political representatives know your views.

The new GDP adjusted option could be attractive for many operators, but if you want to take up this option remember:

- your annual business turnover must be under $2 million
- as a general rule, you must take up this option from the first quarter of the year i.e., for 2001/02 in your September Quarter BAS return due by 28 October

Remember the due dates for Quarterly BAS report (and making payments) is now:

- September Quarter due 28 October
- December Quarter due 28 February ***(not January)***
- March Quarter due 28 April
- June Quarter due 28 July

Fixing up GST Mistakes

YOU NEVER MAKE ANY? – WELL DONE.

But for those who are fallible, the Tax Office will allow corrections to be made on the next BAS return.

However, for businesses with an annual turnover of less than $20 million, the value of the correction must be less than $1,000 per BAS. If it's more than that amount then the previous BAS must be revised.

Overpayments can be offset against underpayments within the limits, ie. If in one BAS period a business had overpaid by say $300 but underpaid by $1,200, the net correction would be an underpayment of $900 so that this could be "fixed up" on the next BAS.

The corrections can be made normally without being subject to penalty or interest.

Note: At this stage the correction arrangements only apply to GST but the Tax Office is looking at extending these arrangements to the other taxes covered by BAS including PAYG.

Input Tax Credits (ITC)

The Tax Office has now clarified that if a business did not claim an ITC because, say, it did not have the tax invoice or overlooked that it had the tax invoice, then the ITC can be claimed in any subsequent BAS return.

Refunds

The Tax Office has indicated that there are some 28,000 businesses who should have received a BAS refund but so far haven't because they didn't advise a bank account for such payments.

Remember the Tax office will only pay refunds direct into a bank account.

If you are one of the 28,000 you can ring the Tax Office on 132 478 to provide your bank account details so you can get your refund.

Supply of a Going Concern

One of the conditions necessary for the sale of a business to be the "Supply of a Going Concern", and therefore be GST free, is that everything necessary for the ongoing conduct of the business must be part of the sale.

ATIA has made representations to Government on the need to recognize that vehicles used as taxis may be difficult to sell as part of a 'taxi business' if they are close to their mandatory 'retirement' age.

However, as the law now stands for a taxi operator to sell the taxi business as a "going concern" then the vehicle MUST be part of the sale. Yet there is no ongoing obligation on the purchaser to keep using the vehicle in the same business.

It also appears that if you lease out your licence then you can still make the sale *Supply of a Going Concern* providing the lease is transferred over as part of the sale.

However, if you are negotiating such a transaction it might be a sensible practice to require that, not withstanding the agreement that the sale is a *"Supply of a Going Concern"*, if GST is assessed as being payable it will be added to the purchase price and therefore the purchaser will meet the GST costs but, of course, get the balancing Input Tax Credit.

Remember that if you operate several taxis or lease several licences you can "sell 1 or more without selling all" and still take advantage of the '*Supply of a Going Concern*' provisions.

It's sensible to get professional advice before finalizing such a transaction.

End of Lease

The Tax Office has ruled that, unlike a Hire Purchase Agreement, as there is no automatic provision requiring the sale of an asset at the end of a Lease Agreement, then the purchase of the asset or a new lease agreement is a separate transaction and would normally be subject to GST (even if the original lease was not subject to GST).

For example: Joe signed up for 4 year lease on his taxi in July 1998. After that lease expires in July 2002, should Joe take out another lease or buy the vehicle, then that transaction would be subject to GST.

If Joe bought the vehicle for $11,000 in July 2002, Joe would be entitled to obtain a Tax invoice and claim back $1,000 as an Input Tax Credit.

Simplified Tax System (STS)

It is still expected that this system will be available for small businesses (up to $1 million pa turnover) from 1 July 2001. The legislation has not yet been passed by Parliament.

If you operate using a company structure the major advantages STS are:

- you can adopt cash accounting rather than accrual account
- all acquisitions costing less than $1,000 can be written off immediately
- assets costing $1,000 or more are grouped into 2 pools of :

  a) those assets with an effective life to less than 25 years able to be written off at 30% pa on a diminishing value basis
  b) those assets with an effective life of at least 25 years (other than buildings) able to be written off at 5% pa on a diminishing basis

- the requirements for annual stocktakes are eliminated in certain circumstances

It is always advisable to obtain professional advice if you consider that the new Simplified Tax System has benefits for your business.