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WEEKLY COMMENT: FRIDAY 30 SEPTEMBER 2022

1. The *Taxation (Annual Rates for 2021–22, GST, and Remedial Matters) Act 2022* (“the March 2022 Tax Act”), which received the Royal assent on 30 March 2022, contains a number of amendments to the Goods and Services Tax Act 1985 (“the GST Act”). This week I continue looking at the changes, including proposed remedial amendments in the Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Bill (“the Platform Economy Bill”, by looking at supply correction information, taxable period amendments and changes affecting GST groups.

Supply correction information

2. Section 19N sets out the requirements when a registered person has issued taxable supply information that includes an inaccuracy.
3. Section 19N(2) (as proposed to be amended by cl 187(17) of the Platform Economy Bill) states that, subject to the listed exceptions discussed in paragraph 9 below, “supply correction information” must be provided if:
 - (a) The taxable supply information includes an inaccuracy in the GST charged; or
 - (b) The registered person has taken a tax position accounting for an incorrect amount of output tax on the supply.
4. “Supply correction information” is defined in s 19E(1), for a taxable supply for which taxable supply information containing an inaccuracy has been issued, as meaning:
 - (a) The name and registration number of the supplier; and
 - (b) Information identifying the taxable supply information; and
 - (c) The date of the supply correction information; and
 - (d) The correction to the taxable supply information, including, if relevant, a correction to the amount of tax charged for the supply (replacement for s 19E(1)(d) proposed in cl 187(1) of the Platform Economy Bill).
5. Supply correction information can relate to taxable supplies, or a class of taxable supplies, made to the recipient or to a class or classes of recipients that include the recipient if the supplier’s records show the information provided includes the details required under s 19N(2) for each supply to the recipient to which the supply correction information relates.

6. Inland Revenue notes that the proposed amendment to s 19E(1)(d) would provide that “supply correction information” can be corrected in a much less prescriptive manner, including allowing for corrections to be dealt with by cancelling the incorrect invoice and issuing a new one, which better reflects commercial practice.
7. A registered person recipient who can issue taxable supply information under s 19K(4) can also issue supply correction information relating to taxable supply information issued.
8. If a person claims to have lost supply correction information, s 19N(8) permits the registered person who issued the information to provide a copy to the person.
9. Supply correction information does not need to be issued in the following circumstances:
 - (a) Under s 19N(3), where the GST shown in the taxable supply information exceeds the GST charged because:
 - (i) The recipient accepted a prompt payment discount, the terms of which are stated on the taxable supply information; or
 - (ii) The recipient accepted a discount offered by agreement, the terms of which are recorded if they are not the usual business terms between the recipient and the supplier;
 - (b) Under s 19N(4), if part of the consideration shown in the taxable supply information has been rebated under a Pharmac agreement to Pharmac, whether Pharmac is acting on its own account or as an agent for a public authority;
 - (c) Under s 19N(7) because:
 - (i) Unless there has been an overpayment of tax under s 45(1), (2) or (3), and tax is refundable under those subsections, the date is more than 4 years from the end of the taxable period in which the GST return was filed for the taxable period in which the supply was made;
 - (ii) If there has been an overpayment of GST under s 45(1), (2) or (3), and the Commissioner is satisfied that the registered person took due care to avoid errors in the taxable supply information, the date is more than 4 years from the end of the 4-year period referred to in the subsection that describes the overpayment;
 - (iii) If the supply was not zero-rated because s 11(1)(mb) was incorrectly applied to the supply, the date is more than 7 years from the date of the settlement of the transaction relating to the supply.

References to “tax invoice”, “credit note” and “debit note”

10. Section 19Q provides that:

- (a) A reference in a document to a “tax invoice” is to be read as including a reference to taxable supply information to the extent necessary to reflect sensibly the intent of the document;
- (b) References to “credit note” or “debit note” are to be read as including references to supply correction information to the extent necessary to reflect sensibly the intent of the document.

Records of supplies to nominated recipients

11. Section 19I states that a person who is nominated to receive a supply of goods under a contract to which s 60B(3), (4), and (6) apply (where the nominee is the recipient), and to which the nominee is not a party, must have a record of the supply showing:
- (a) The name and address of the supplier; and
 - (b) The date on which payment for the supply is made; and
 - (c) A description of the goods; and
 - (d) The consideration for the supply.

Taxable period amendments

12. Effective from 30 March 2022, new s 15EB(1) allows the Commissioner to approve under s 15C an end date for the taxable period of a registered person that is not the last day of the month if the Commissioner is satisfied that there are good commercial reasons for the registered person's chosen date.
13. Section 15EB(2) allows the Commissioner to approve a day of the week as the last day for the taxable period of a registered person if the Commissioner is satisfied that:
- (a) The use of the day requested would improve the alignment of the registered person's taxable periods with the registered person's accounting systems; and
 - (b) If the registered person is requesting a last day that is not within 7 days of the end of the month, the registered person's accounting systems do not allow the use of a last day within 7 days of the end of the month.
14. The amendments allow an application for approval to be for the accounting cycle that would be equivalent to either a 1-month or 2-month or 6-month taxable period and:
- (a) Can be based on the end of an accounting cycle, which can be a specific day of the week (the dates will therefore vary) or can be based on a fixed calendar date;
 - (b) Would take effect from the end of the taxable period in which the person applies or at the end of a later taxable period nominated by the registered person.
15. Effective from the first taxable period starting on or after 30 March 2022, new s 15E(2) states that a registered person may apply under section 15C to the Commissioner for approval under s 15EB to have a taxable period that is:
- (a) Equivalent to a 1-month period and has a last day that is an approved:
 - (i) Date of the month; or
 - (ii) Day of the fourth week in each taxable period; or
 - (b) Equivalent to a 2-month period and has a last day that is an approved:
 - (i) Date of the second month in each taxable period; or
 - (ii) Day of the eighth week in each taxable period; or

- (c) Equivalent to a 6-month period and has a last day that is an approved:
 - (i) Date not more than 7 days before or after the last day of the sixth month in each taxable period; or
 - (ii) Day of the week not more than 7 days before or after the last day of the sixth month in each taxable period.

16. Inland Revenue noted in the Commentary to the bill that the amendments:

- (a) Allow the Commissioner to approve a registered person to use their accounting cycle as the basis for calculating GST payable for a taxable period, provided that the Commissioner is satisfied that the request to change their end date of a taxable periods is consistent with the purpose of aligning the person's accounting system;
- (b) Will mean that the end date of the accounting cycle would be aligned with the last day of a month using late and early balance date principles similar to those used in the Income Tax Act 2007 for non-standard balance dates.

17. The late and early balance date principles are set out in new s 15E(2B), which states that if a registered person has a taxable period with an approved last day or date that is not the last day of the month, the approved day or date for each taxable period and the end of the month to which the day or date is treated as corresponding for the purposes of the Act are determined using the following rules:

- (a) If an approved day or date for a month is before or on the fifteenth day of the month, the approved day or date is treated as corresponding to the end of the preceding month; and
- (b) If an approved day or date for a month is after the fifteenth day of the month, the approved day or date is treated as corresponding to the end of the month; and
- (c) Successive taxable periods end on successive approved days or dates, unless s 15E(2C) applies (see paragraph 19 below).

18. Inland Revenue notes in the Commentary to the bill that if the approved end date of a taxable period is other than the end of the month, the end date of the registered person's accounting cycle is treated for GST purposes as corresponding to:

- (a) The last day of the month, if the accounting cycle ends on or after the 16th of the month (for example, 16th March is treated as the taxable period ending on the following 31 March – late end date); or
- (b) The last day of the previous month if the accounting cycle ends on or before the 15th of the month (for example, 13 April is treated as the taxable period ending on the prior 31 March).

19. New s 15E(2C) provides the rule where two successive end dates could correspond the same end of the month, and states that a taxable period that starts after an approved "change day" ends on the second approved day following the change day if:

- (a) The change day is treated under s 15E(2B) as corresponding to the end of the month of the change day; and

(b) The first approved day after the change day is also treated under s 15E(2B) as corresponding to the same end of the month of the change day.

20. The effect of s 15E(2C) is to allow the GST information from the 2 successive end dates relating to the 2 months to be aggregated and returned as one taxable period. Inland Revenue notes that this will essentially apply to organisations using accounting cycles based on a '4 week – 4 week – 5 week' accounting system.

Amendments affecting GST groups

21. A series of new sections 55(1A) to 55(1AQ) have been inserted to clarify the intent and application of the GST group rules as follows:

(a) The rules in s 55 to apply to companies meeting the eligibility requirements of s 55(1) or 55(8) and choosing to form a GST group [s 55(1A)];

(b) The GST group rules are intended to ensure that, with exceptions, the GST Act treats the members of the GST group as if they were a single company, operating the separate activities of each member company, making supplies to, or receiving supplies from non-members, acting through the representative member to make elections, giving information and making payments, and giving taxable supply information and supply correction information either through the "issuing member", if there is one, or through the representative member, sharing the responsibilities and liabilities under the GST Act [s 55(1AB)];

(c) The activities of the GST group are treated as being carried on by the representative member [s 55(1AD)];

(d) Intra-group supplies are disregarded for the purposes of calculating GST payable by the group, and supplies to non-members are treated as being made by the representative member [s 55(1AE)];

(e) Supplies that would be non-taxable supplies if made by a member are treated as supplies by the representative member [s 55(1AF)];

(f) Supplies to members by non-members are treated as supplies to the representative member [s 55(1AG)];

(g) Where goods and services are acquired, or produced, or applied by a new member before joining the GST group result in a difference for an adjustment period between the percentage intended use by the new member and the percentage actual use by the representative member, the percentage intended use and other related pre-group actions, such as input tax claims by the new member, are attributed to the representative member [s 55(1AH)];

(h) Information relating to land transactions under s 78F provided to or by a group member is treated as provided to or by the representative member [s 55(1AI)];

(i) When part of the GST group, the members of the GST group have the same taxable period under sections 15 to 15E and the same accounting basis under section 19 or 19A [s 55(1AK)];

- (j) The representative member is responsible for making elections, making returns, giving information (unless taxable supply or supply correction information is provided directly by a member or an issuing member under s 55(1AM)), paying GST (including GST paid by a group member) and responsible for paying GST payable by the GST group [s 55(1AO)];
 - (k) A GST group may choose that taxable supply information or supply correction information can be issued by an active member in the active member's name, or by an "issuing member" whose identity and role are notified to the Commissioner by the representative member, or by the representative member [s 55(1AM)];
 - (l) The representative member and an issuing member or active member of a GST group must meet the requirement of s 19J and s 19L for taxable supply information and supply correction information [s 55(1AN)];
 - (m) A past or present member of a GST group has joint and several liability with the other members of the GST group for all tax payable and not paid by the representative member for each taxable period or part-period for which the member is part of the GST group, and the responsibilities and liabilities of a member of a GST group under s 19J and s 19L for the activities of the member while part of the GST group, and the registration requirements in Part 8 if a registered person when a GST group member [s 55(1AO)];
 - (n) The responsibilities referred to in s 55(1AO) are unaffected by a member leaving the GST group or by a representative member ceasing to exist, but may be relieved by the Commissioner under s 55 (1AP) [s 55(1AQ)];
 - (o) The responsibilities of a leaving member may be relieved by the Commissioner in certain circumstances, including if the tax payable is increased after the member leaves the GST group and the Commissioner considers that relieving the leaving member from responsibility will not prejudice the recovery of the tax [s 55(1AP)].
22. The GST group eligibility requirements in s 55(1)(a) and (b) have been amended to refer to an "eligibility group", but the requirements have remained essentially unaltered.
23. New s 55(4AA) allows a newly incorporated company to become a member of a GST group from the date of incorporation, or the start of the taxable period following the date of incorporation, if the application is made within 12 months after incorporation, and the company is eligible to be a member when it is incorporated.
24. With effect for taxable periods commencing on or after 30 March 2022, new s 55B allows a group of registered persons who are not a GST group to be treated as a "supplier group" with a single "issuing member" that issues under s 19J the taxable supply information and the supply correction information for supplies by a "supplying member" of the supplier group, by meeting the following requirements:
- (a) The requirements to be a supplier group are met by:
 - (i) Agreeing that the issuing member only issues the taxable supply information and the supply correction information, and the other members do not; and
 - (ii) Including the name, address, and registration number of each member of the supplier group in the agreement;

- (iii) Recording any relevant circumstances of entering into the agreement if the terms of the agreement differ from normal commercial terms agreed earlier between members of the supplier group (i.e. the reasons for adopting the shared invoice process);
 - (iv) The Commissioner not invalidating the agreement because the Commissioner considers that the members of the supplier group have failed to satisfy the requirements of the agreement and s 55B;
- (b) The issuing member is responsible for the obligations under the GST Act of a supplying member making a supply;
25. When the members of a supplier group agree to have, or to change, the issuing member for the supplier group, the issuing member must notify the Commissioner of the member's role and provide the Commissioner with an undertaking to meet the obligations of an issuing member for the supplier group.



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