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Service Delivery Division

18 May 2008

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Local Government Bulletin

Interim GST Certificates for 2008-09 by Local Governments

Purpose

The purpose of this Bulletin is to advise Councils of –

- the requirements for interim certificates confirming compliance with the GST arrangements to be sent to the Department by **Wednesday 3 June 2009**, and
- the interim GST advice required to be given to the Commonwealth this year by Friday 5 June 2009 by the Queensland Treasury.

The requirements for the annual GST certificates for 2008-09 will be advised by the Department in June by Local Government Bulletin.

Background

The *Local Government Act 1993* (LGA), in the definitions (Schedule 1), calls the GST amount that a local government may pay under the GST Act Section 5 “notional GST”.

In order to ensure local governments pay the notional GST, the Commonwealth, in Section 15(aa) of the *Local Government (Financial Assistance) Act 1995 (Cwlth)*, has legislated to require the State to withhold, from Financial Assistance Grant (FAG) payments to local governments, amounts equivalent to notional GST which the local governments have not paid.

This Commonwealth requirement is reflected in Section 200(2) of the LGA which requires the State not to distribute to a local governing body any amount equal to notional GST the body has not paid.

Confirmation Process

In order that the State can meet its obligations under the legislation, it needs to ensure a local government has paid the notional GST. The term “has paid notional

GST” is interpreted as meaning “has paid all notional GST due”, or in other words “voluntary GST payments”.

Please note the term “paid all notional GST due” goes hand in hand with the ability to claim GST input tax credits. That is, while government bodies may in fact receive net GST credits, this can only occur after accounting properly for all gross GST input tax credits and gross GST payments.

The primary method the State uses to ensure a local government has paid notional GST is to require a certificate of confirmation to be supplied to the Minister by each local government. This certificate is required under Section 21 of the *Local Government Finance Standard 2005* (LGFS) and for Brisbane City Council under Section 5A of the *City of Brisbane Regulation 1993*. This certificate is also required for Aboriginal Shire Councils, under the *Local Government (Community Government Areas) Finance Standard 2004*.

Whilst the certificate is seen as evidence that a local government has paid notional GST, it could be displaced by evidence to the contrary. This might be provided by auditors or may come from other sources.

If no certificate is provided, the State would need to ascertain by other means whether the GST which the local government may pay under the GST Act has been paid. If the GST had not all been paid by a local government, the amount would need to be quantified before the FAG could be paid to that local government. Otherwise the State could be in breach of the Commonwealth legislation.

Section 21 of the LGFS provides:

“21 Certificate about payment of notional GST

A local government must, no later than 15 September in each financial year, give the Minister an official certificate of the local government stating the local government has paid notional GST for the most recently completed financial year.”

Interim GST Advice

By 5 June this year, the Commonwealth seeks from members of the GST Administration Subcommittee (GSTAS) interim advice on voluntary GST payments by local government bodies. Queensland Treasury is required, as Queensland’s GSTAS member, to provide this advice.

The timing of the request is to allow the Commonwealth Commissioner of Taxation to make a determination concerning the amount of GST collected in the financial year in question.

Information sought by the Commonwealth is simply instances of where voluntary payments should have been, but were not paid by local government bodies. This year, this interim advice is to be for the period 1 July 2008 to 31 May 2009.

Accordingly, local governing bodies are requested to provide the Department with this interim advice by Wednesday, 3rd June this year. This advice will then be provided to Queensland Treasury for confirmation with the Commonwealth.

Form of Interim GST Certificate

The form of the interim certificate is not prescribed. The following form will meet the interim requirements:

Executive Director
Service Delivery Division
Local Government and Regional Services Group
Department of Infrastructure and Planning
PO Box 15031
City East, Queensland, 4002

Interim Certificate about payment of notional GST

To assist compliance with Section 21 of the *Local Government Finance Standard 2005* for the financial year ending 30 June 2009, we certify that notional GST has been paid by (***name of Council***) for the period 1 July 2008 to 31 May 2009.

XYZ
Mayor
Dated: (before 3 June 2009)

ABC
Chief Executive Officer

The following form will meet the interim requirements for Aboriginal Shire Councils:

Executive Director
Service Delivery Division
Local Government and Regional Services Group
Department of Infrastructure and Planning
PO Box 15031
City East, Queensland, 4002

Interim Certificate about payment of notional GST

To assist compliance with Section 18 of the *Local Government (Community Government Areas) Finance Standard 2004*, for the financial year ended 30 June 2009, we certify that notional GST has been paid by (***name of Council***) for the period 1 July 2008 to 31 May 2009.

XYZ
Mayor
Dated: (before 3 June 2009)

ABC
Chief Executive Officer

Possible Future Changes

The Minister has been asked by the Commonwealth to supply information on the level of compliance and the amount of unpaid GST by local governments. This information is not available from the data held by the Department and it may be necessary at some time to require the certificate to contain additional information to meet this need.

Requirements for Annual GST Certificates

The annual GST certificate requirements for 2008-09 will require Councils to submit their annual GST certificate consistent with previous years. Further advice and suggested forms for the annual GST Certificates will be provided by the Department in June by Local Government Bulletin.

Further information

Any further enquiries on this matter should be addressed to Paula Nichols, Program Office, Service Delivery Division, phone 3225 8691, or email Paula.Nichols@dip.qld.gov.au.

The Department's postal address is PO Box 15031, Brisbane, City East, Queensland, 4002.

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