

AUSTRALIAN EDUCATION UNION

SUBMISSION TO THE

TAX CONSULTATIVE COMMITTEE -

APPLICATION OF THE GST IN REGARD TO

EDUCATION

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Australian Education Union
Federal Office
120 Clarendon Street
Southbank VIC 3006

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The Australian Education Union (AEU) is the union representing approximately 155 000 members in early childhood, public schools, TAFE and Adult and Community Education. As such, we have considerable concerns about the way the GST will be implemented in regard to education, and therefore wish to make the following submission.

The AEU is opposed in principle to the introduction of a GST which includes essential items such as food. Such taxes are generally regressive, and evidence from other countries suggests that compensation packages are too easily eroded over time.

The AEU also believes that the current specific proposals will impact deleteriously on the provision of education services. Although it is claimed that education will be GST free, the reality is that there will be many ways in which a GST will impact on Education services and act to increase funding problems and administrative burden. It will also serve as a disincentive to voluntary fundraising and activity, and penalise parents, students and teachers.

However, for the purposes of this submission, the AEU accepts that it is not the role of the Consultative Committee to evaluate the proposal, but to advise on its implementation. We have therefore confined our comments to practicalities and ways in which the application of the GST in education can best be made to keep the spirit that it should be GST free.

1. Terms of Reference and Timeline for the Consultation

The AEU expresses its disappointment and concern about the very limited scope of the consultation and of the very short timeline allowed for this consultation. *Tax Reform: not a new tax, a new system* (the Tax Package) was released only weeks before the election, and any issues in relation to education that were raised in the context of the election were met with the response by the government that they would be referred to a full and thorough inquiry after the election. The education community therefore has every right to feel let down and deceived by the restricted terms of reference and the short timelines allowed for this consultation.

Further, some reports in the media suggest that the Consultative Committee has defined its role in the education area as primarily determining the definition of those institutions that will have GST-free status. Whilst this is an important issue, it is only the first of many serious definitional problems, and the AEU urges the Committee to go beyond this restricted role. It should be noted that the Tax Package states that the Committee will consider both “institutions and courses “.

Below are outlined a number of issues which the AEU believes the Committee needs to address.

The AEU accepts that some of this is beyond the control of the Consultative Committee. However, it urges the Committee to address as much as possible within its terms of reference and use its capacity to refer issues on to the Tax Reform Task Force to ensure that the introduction of the GST does not add a period of confusion and uncertainty to a period of change and unnecessarily increase the already onerous workload of principals/directors in particular and education workers in general.

2. Which Educational Services will be GST Free?

There has to date been considerable confusion created about which educational services will be GST free. A media release from Senator Ellison *The Facts About GST and Education* (25 August 1998) talks of things which are “non-compulsory activities that are not assessed or do not contribute to a student’s marks or graduation requirements” as being subject to a GST.

This raises a number of questions about definition in areas such as camps or excursions, and extra curricular activities such as music. It creates a range of grey areas as to what is “for assessment”. It would be simply a puzzle as to how it relates to pre schools and the earlier years of school. It also has implications for many TAFE and Adult and Community Education courses which are not linked to qualifications. It clearly suggests that educational settings will have to continually distinguish between those activities which will and will not be GST free.

On the other hand, the AEU believes that the Prime Minister, in a letter to the Australian Vice Chancellors Committee has referred to those activities which are encompassed by the National Goals of Schooling as being GST free, and has also included courses which are preparatory to those courses leading to qualifications.

Notwithstanding that this latter is a far broader definition, which could be interpreted as covering virtually anything that is carried out in schools, and therefore by extrapolation, in other educational settings, it still raises the possibility that some activities which are carried out for solely educational purposes are not GST free. This would mean that educational organisations would need to discriminate between those activities which will attract a GST and those that will not.

In 1997 there were approximately 1.46 million students undertaking publicly funded VET courses including Adult Community Education courses as well as TAFE. The TAFE population was 1.14 million. Many of these are courses which lead to a qualification under the Australian Qualifications Framework.

Others are preparatory, pre-vocational or short courses which may lead to accredited courses either through formal Recognition of Prior Learning or through placing the individual on a pathway to further education and training.

It will be very difficult to draw a "line in the sand" in regard to which short or recreational courses will definitely lead to a qualification and which will have the effect of disposing an individual towards further training. Therefore courses provided in all publicly funded VET (including TAFE and ACE) institutions which are not for profit should be GST exempt.

The AEU believes that any attempt to distinguish activities in educational settings which are oriented to particular outcomes, whether that be assessment or the National Goals, will result in arbitrary decisions, uncertainty, and confusion. It would also encourage educational institutions to structure programs so that they avoid a GST rather than for the best educational effect.

The AEU therefore recommends that the Committee define in the broadest terms those courses which are GST free. Only those courses where there is a clear intention to produce a profit that goes to a party beyond the institution itself should be considered for a GST. The activities of educational institutions would therefore be automatically GST free unless there was some money accruing to an individual or other body.

This would meet the Committee's terms of reference in that it would be "as simple and clear as possible", would minimise "compliance and administrative costs" and the amounts involved would "not have significant adverse revenue impacts".

Even within this definition, it would still be necessary to explicitly deal with the issue of students taking home the products of their tuition in practical subjects. Senator Ellison in the same release referred to above, talked of "levies or compulsory fees for a subject, materials or computer usage being GST free provided ownership does not pass to the student". Such a ruling would create considerable unnecessary work for education workers, and could well take money from education as educational institutions are left bearing more of the costs of these materials as students would have a financial disincentive to taking possession of the goods.

The AEU recommends that the GST not be applied to cost recovery of course materials unless there is a commercial activity or profit involved.

3. Public and Private

One of the terms of reference instructs the Committee to "minimise any discrimination between private and public provision".

The AEU urges that in doing this, the Committee starts from a point which accepts that the bulk of educational services are and should be largely free and predominantly public. In recent years many TAFE institutes have been compelled by governments to raise a proportion of their income through commercial activities. It would be totally iniquitous for the government to now add a GST to this burden and would effectively be a further reduction in government funding.

It would be very disadvantageous if, in order not to discriminate, educational activities in the public domain, undertaken for mainly public good reasons, were adjudged as quasi commercial.

Therefore, the AEU recommends that the activities of the public education sector be taken as the benchmark of educational activities which should be GST free, and the activities of the private sector assessed in comparison to these.

In the case of institutions which are designed to make a profit from education, there are clear differences of intent, and consequently of the way in which fees and charges are structured. The AEU believes that it may be quite legitimate for such activities to incur a GST, but would be appalled if this led on to the charging of similar activities in the public sector which are not designed to create profits.

Conversely, because many public education activities, notably public schools, are technically “free” but increasingly dependent on non government money, this must not lead to differential treatment of gifts, voluntary levies or donations to public education. Many private institutions have greater capacity to structure money from private sources in ways which could take advantage of any differences in the treatment of the various sources of such money. This must not be allowed to penalise public institutions.

The AEU therefore recommends that all donations, voluntary contributions, fees and similar charges be treated in the same manner regardless of source or destination, and be GST free.

4. Parent Organisations

Many educational institutions are supported by parent (and in some cases student) organisations. Such organisations raise essential funds for both basic and “extra” activities. Their contribution to education funding is considerable and their efforts should be both appreciated and supported.

Some of these activities are ongoing, such as tuckshops, and some are “one off” such as the lamington drive or the school fete. Some involve selling or re-selling goods, such as uniforms. Other activities may be both fundraising and educational, such as parent tutor music schemes. In many cases, particularly in large institutions, the totality of these activities is well over the \$100 000 threshold at which GST should be paid. Below this level, organisations will not be able to re-claim GST on inputs.

There is considerable confusion and concern about the impact of the GST in this area. In particular, many of the Government’s statements to date seem to imply that some at least of these activities will be regarded as commercial and that they will be covered by the term of reference which instructs the Committee to “ensure business and charitable organisations are treated on an equivalent basis where they provide similar goods and services on a commercial basis to consumers”.

The AEU believes that it would be iniquitous for the government to raise taxes on activities which are primarily fund raising activities designed to raise money for educational purposes. (Ironically, such activities are often necessary to overcome the shortfall in government funding.) It would be a disincentive to those hard working volunteers who give of their time and would decrease the amount of money they raise.

The degree of commerciality in the process is very small, the commercial viability of the activities wholly dependent on voluntary labour, and the degree to which they threaten or compete with genuine commercial activities marginal.

The AEU therefore recommends that all fundraising activities be GST free, and that organisations may reclaim GST on input costs.

5. Professional Organisations

The education field is characterised by a range of professional organisations. Such organisations operate on the basis of the voluntary input and considerable hard work of dedicated professionals who are seeking to put into their profession for almost entirely altruistic reasons.

Some of these organisations have over the years built their financial base to a quite considerable level and sometimes employ people to further their activities. Many will have turnovers in excess of \$100 000. As part of this they may engage in quasi commercial activities, such as the production and sale of teaching materials or the organisation of conferences. Such activities are frequently dependent on the donation of intellectual property, and voluntary labour in both the production and distribution. They are often motivated by educational rather than commercial reasons. To consider such activities as being “commercial” is to considerably over state the case. There are very few cases where such activities are purely commercial, although the AEU accepts that there would need to be safeguards to ensure any immunity from GST did not become a loophole for more genuinely commercial activity.

It should also be recognized that the term “professional organisations” in this context is taken to include the many education community and parent organisations which serve to further interest in and support for educational activities.

The AEU recommends that the activities of Professional, Community and Parent Organisations, including those activities which help raise the funding on which the organisation is dependent, be GST free, except where it can be shown that there is a deliberate attempt to use this provision to evade the GST. Such organisations should be able to reclaim GST on materials purchased.

6. Teachers and other Education Workers

In order to carry out their professional duties, teachers and other education workers have need to purchase materials both for personal use and for use by their students. Such items may include stationery, books, computer hardware and software, sports equipment, special clothing, and so on, all of which will incur a GST.

They also undertake professional development activities, in their own time and at their own expense, some of which may incur a GST. Attendance may include travel costs, which will be subject to a GST.

Membership of Professional Associations and subscriptions to journals are other expenditures which are incurred in the course of work and which may incur a GST, depending upon related decisions.

In the past, expenditure such as this has been eligible for work related expenses claims in filing income tax returns. However, this has frequently been the cause of disputation with the Tax Office, and the tendency has been for the allowable claims to become more restricted.

There is a need to ensure that all such expenditure is reclaimable on personal income tax, and for the guidelines on this to be clear.

The AEU therefore recommends that the right of education workers to claim all GST expenditure on professional activities through their individual tax returns be made explicit.

7. Parents and Students

Many items used for educational purposes are purchased by individual students and/or their parents. Such materials include books, stationery, computer hardware and software, and uniforms, and in the case of TAFE courses, specific materials, tools and equipment. These materials will incur GST.

Expenditure may also be incurred in relation to extra curricular activities, camps and excursions, transport, and in relation to a number of TAFE and Adult and Community Education courses. Some of these may incur a GST depending on related decisions.

Despite the rhetoric from the government around its Tax Package, the reality is that the compensation to individuals will in many cases come nowhere near meeting the increased costs. The difference between the cumulative GST and the current wholesale sales tax (WST) on the wholesale price will be much greater than has been admitted to date and will leave many students and/or parents struggling to meet education costs which incur a GST.

Unless these expenditures are reclaimable, then education cannot be considered GST free.

The AEU recommends that GST costs related to educational expenditure be reclaimable through personal income tax returns.

8. Administrative Burden of the GST

The AEU is concerned at both the potential increase in workload which may occur in relation to the GST, and the potential problems related to cash flow resulting from paying and reclaiming GST.

We note that the terms of reference require that “resulting compliance and administrative costs” are to be kept to a minimum. The AEU believes that this is best achieved by the recommendations above. The basic precept should be that most education activities do not require any interaction with GST requirements, and these will only occur where absolutely necessary.

The AEU therefore recommends that exemption should be assumed, and that an onus to fulfill GST requirements be placed on education institutions in only limited specified circumstances, rather than having to prove exemption at every turn.

Exemption from WST is currently available through a system of Sales Tax Exempt certificates. This system works reasonably well, has minor administrative workload implications and does not affect cash flow.

The AEU recommends that GST exemption on purchases by educational institutions should be available at source, as is currently the case with WST.

Conclusion

The introduction of the GST will have considerable ramifications within education. Making education GST free in fact also makes it complicated as questions of definition have to be resolved. The AEU urges the Committee to take note of the above concerns and to make decisions in a way which maximises the “GST free” status and which minimises the workload, uncertainty and confusion which will be caused to workers who have many other priorities.

We would be pleased to discuss any of these matters further.