Excise Amendment (Reducing Business Compliance Burden) Bill 2011

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Law and Bills Digest Section

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Excise Amendment (Reducing Business Compliance Burden) Bill 2011

Date introduced: 23 November 2011

House: House of Representatives

Portfolio: Treasury

Commencement: Sections 1 to 3, Schedule 1 items 1 to 12, Schedule 1 item 16 and Schedule 1 items 26 to 28 commence on Royal Assent. Schedule 1 items 13 to 15 and Schedule 1 items 17 to 25 commence immediately after provisions covered by Table item 2 Schedule 1 items 1 to 12.

Links: The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bill’s home page, or through http://www.aph.gov.au/bills/. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at http://www.comlaw.gov.au/.

Purpose

The purpose of the Excise Amendment (Reducing Business Compliance Burden) Bill 2011 (the Bill) is to amend the Excise Act 1901 (Excise Act) to enable small business entities to defer settlement of excise and excise-equivalent customs duties from a weekly to a monthly cycle.

Background

This Bill is a companion Bill to the Customs Amendment (Reducing Business Compliance Burden) Bill 2011. The Bills Digest for the Customs Amendment (Reducing Business Compliance Burden) Bill 2011 contains information about the background to both Bills.¹

Committee consideration

The Senate Selection of Bills Committee resolved at its meeting on 24 November 2011 not to refer this Bill to a Committee.²


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Financial implications

The Explanatory Memorandum outlines the financial impact of the Bill and the Customs Amendment (Reducing Business Compliance Burden) Bill 2011. There will be some impact on revenues for the Australian Taxation Office and the Australian Customs and Border Protection Service. The Explanatory Memorandum notes that the ‘measure is expected to result in a small one-off transitional compliance cost with an ongoing, medium reduction in compliance costs for small business entities and gaseous fuel distributors’. 3

Key provisions

Excise Act 1901

*Item 8* repeals existing subsection 61C(1) and substitutes proposed subsections 61C(1)–(1E).

**Proposed subsection 61C(1)** provides that a person may apply to the Collector4 for permission to deliver goods for home consumption without entering them in respect of a seven day recurring period; or for a calendar month if the person is a small business entity or part of a class prescribed in the regulations or certain goods prescribed by the regulations.5

**Proposed subsection 61C(1A)** provides that a person may specify in the application the seven day period they wish to use.

**Proposed 61C(1C)** provides that, on receipt of an application under subsection 61C(1) or advice under subsections 61C(8) or (9) (inserted by *item 12* of this Bill), the Collector may give permission by notice in writing for a person to deliver goods for home consumption, if the goods are specified in the permission and subject to the CEO’s control, even though entry of the goods has not been made or passed under the Excise Act. In the alternative, the Collector may refuse permission, in which case, the Collector will set out the reasons for the refusal in the notice. Where permission is given, the notice must specify the seven day period and the first day of the seven day period and in the case of the calendar month, the notice must specify the calendar month to which the permission relates: **proposed subsections 61C(1D) and (1E).**

*Item 10* repeals existing subsection 61C(3) and substitutes the provision with **proposed subsection 61C(3)** which imposes conditions in relation to a permission under subsection 61C(1C). The conditions relate to the following issues:

- a person is required to submit a return to the Collector for goods other than gaseous fuel delivered into home consumption, on the first business day after each seven day period

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4. Section 4 of the Excise Act defines the ‘Collector’ as the CEO (that is, the Commissioner of Taxation) or an authorised person.
5. The application must be in an approved form: **proposed subsection 61C(1B).**

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• a person is required to submit a return to the Collector for gaseous fuels on or before the sixth day after the end of each seven day period
• if the person is a small business entity and the permission relates to a calendar month, the person will give the collector a return on or before the 21st day of each calendar month providing particulars for goods delivered into home consumption
• a person is part of a class mentioned in subparagraph 61C(1)(b)(i) (a small business entity or in a class of persons prescribed by the regulations) or has permission to enter goods under subparagraph 61C(1)(b)(ii) (goods of a kind prescribed in the regulations) in respect of a calendar month is subject to any condition prescribed by the regulations
• a person must notify the Collector in writing as soon as practicable if the person ceases to be a small business entity
• if the person ceases to be included in the class specified in subparagraph 61C(1)(b)(i), the person must notify the Collector in writing as soon as practicable
• when a return is submitted, the person pays any duty owing at the rate applicable when the goods were delivered into home consumption, and
• any condition specified in the permission which the Collector considers necessary to protect the revenue or to ensure compliance with the Excise Acts.

Item 12 inserts proposed subsections 61C(7)-(10). Proposed subsection 61C(7) provides that the Collector may revoke a permission by a notice in writing if a condition to which the permission is subject has not been complied with. The notice must include reasons for the revocation.

Proposed subsection 61C(8) provides that the Collector must revoke a permission in respect of a calendar month if a person advises the Collector that they have ceased to be a small business entity or part of a class mentioned in subparagraph 61C(1)(b)(i). The Collector may give another permission in respect of a seven day period instead.

Proposed subsection 61C(9) provides that if a person wishes to change the period to which a permission applies, the Collector may revoke that permission and issue another permission in respect of another period.

Item 16 inserts proposed subparagraphs 162C(1)(d)-(f) after paragraph 162(1)(e). Section 162C provides that a person who is dissatisfied with a decision which is listed in subsection 162C(1) may object against the decision in the manner set out in Part IVC of the Taxation Administration Act 1953. The effect of the amendment in item 16 is that decisions by the Collector under section 61C are reviewable decisions.

Income Tax Assessment Act 1997


6. Items 13–15 of the Bill make consequential amendments which renumber the paragraphs in subsection 162C(1).

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