

RELEASE OF DRAFT LEGISLATION TO PROTECT \$655M IN REVENUE

Assistant Treasurer, Senator Nick Sherry, has today released for consultation an Exposure Draft Bill aimed at protecting \$655 million in revenue, put at risk as a result of a decision last year of the Federal Court concerning insolvency and the application of the goods and services tax (GST).

"The court's decision goes against the underlying intention of the GST law, as clearly stated and applied since its introduction nine years ago."

"Up to \$655 million in revenue could be lost if the Government doesn't take this action."

"The decision has also created a degree of uncertainty for the business community and insolvency practitioners in particular."

"These amendments will restore the policy intent as clearly stated in the Explanatory Memorandum to the law introducing GST," the Assistant Treasurer said.

The amendments contained in the Exposure Draft Bill became necessary after the Federal Court decision in *Deputy Commissioner of Taxation v PM Developments Pty Ltd* [2008]. The court found that the GST liability for transactions occurring during the period of a liquidator's appointment is the liability of the company in liquidation and not the liquidator.

The intention of the GST law is that the liquidator of an insolvent company is responsible for paying GST on transactions made in their capacity as the liquidator of that insolvent company.

If left to stand, the Federal Court decision would mean that the GST liability would instead fall to the insolvent company, greatly reducing the likelihood of payment.

The \$655 million is made up of refunds of GST already paid and ongoing revenue costs over the forward estimates.

The amendments will apply from the commencement of the GST law on 1 July 2000.

The Exposure Draft Bill and draft Explanatory Memorandum are available on the Treasury website at www.treasury.gov.au. The consultation period is for four weeks, closing on Friday, 7 August, 2009.

"I urge interested parties to consider the amendments and to provide any feedback so this can be taken into account in finalising the legislation," the Assistant Treasurer said.

The Government will introduce the legislation during the Spring Sittings of Parliament.

CANBERRA
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