



Commissioner's address at The Tax Institute's National GST Conference

Commissioner of Taxation, Rob Heferen's address at the National GST Conference.

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Introduction

Thanks Gordon.

I would like to respectfully acknowledge the traditional owners of the lands that we meet on today – the Wurundjeri people. I would also like to extend that respect to other Aboriginal and Torres Strait Islander peoples here today.

I would normally start these things by introducing myself, a bit of my background, and a bit of my journey to becoming Commissioner, but I spoke about this in some detail in my recent **Tax Summit** address.

And so today I might be a little more self-indulgent.

When Gordon approached me earlier in the year to speak at this conference I jumped at the opportunity.

I feel it's part of my coming home. I was there in the GST's infancy, part of the team in Treasury that contributed to its high-level design and then, in between, very briefly, part of the team in the ATO that did the

legislative design, under the leadership of Rick Matthews and Bruce Quigley.

And while we are here to consider the challenges and opportunities for GST now and into the future, I think it's always useful to look back. As I said, if you'll indulge me, I thought I'd start with a bit of GST history. I'm sure most – but not all – in the room are familiar with it.

A bit of history

A broad-based tax on consumption became a widespread part of European tax systems through the 1950s and 1960s. It rapidly spread to the rest of the world and today the bulk of countries have one, in some form.

A notable outlier of course is the US, having no Federal consumption tax but instead a state-based retail sales tax system.

Australia's history with our then-called Value Added Tax or, VAT is worth remembering for context to the discussions you'll have in the coming days.

The 1975 Asprey Review, commissioned by the McMahon government and reported to the Whitlam government, recommended amongst other things that Australia follow the direction of most of the developed world and implement a VAT.

Like the rest of the review's recommendations, it lay dormant under the Fraser government, until in 1985 it was given new life when former Treasurer Keating proposed a Broad-Based Consumption Tax (BBCT) at the Government's Tax Summit. This wasn't a VAT, but rather a comprehensive Retail Sales Tax, which, by the way, would have included health services and food.

Treasurer Keating was unsuccessful in getting the BBCT over the line, and the idea was buried once again.

The VAT was revived in 'Fightback!' by Dr John Hewson, but remained purely a proposal and not government policy, following the 1993 election.

But then, in 1997, former Prime Minister Howard and Treasurer Costello commissioned the Treasury to work up a package of tax reforms that would include replacing our then Wholesale Sales Tax with a BBCT, and have a significant tax mix switch from direct tax to indirect tax.

I was privileged to be one of small number of ATO staff to be seconded to the 'secret bunker' in Canberra to assist the key development team, led by Dr Ken Henry.

In early 1998 the PM and Treasurer gave the endorsement for a comprehensive package to be worked up, and so A New Tax System (or, ANTS) was born. It had much more than the reforms to Australia's indirect tax system, but perhaps that's an interesting discussion for another day.

I should make mention here of my old boss, colleague and mentor Paul McCullough, who led the work on the GST. Two years ago at this conference he outlined the reform process in some detail. For those who weren't here, or haven't read his speech, I encourage you to do so.

Interestingly, at least to me, within the ANTS the design of a multistage VAT rather than a Retail Sales Tax was taken as given.

The consensus both domestically and internationally was that it was considered more robust to fraud.

Post the 1998 election, design work went into full swing. One of my tasks was to support a panel put together to articulate what would be included in the main GST-free categories:

- health
- education
- non-commercial charitable supplies, and
- religious groups.

The panel, formerly the Tax Consultative Committee (chaired by David Vos with Professors Judith Whitworth and Peter Tannock), had less than one month to complete their task, but fortunately that still gave us time to consult with stakeholders and get some sensible definitions and delineations.

Fast forward to the parliamentary debate on the legislation.

When the Tasmanian independent (and balance of power holding) Senator Harradine stood in the chamber and said he could not support it, our hearts dropped. Some of us thought it was over.

But the Government wanted this reform, and they made that clear.

Negotiations with the Australian Democrats, vital to the passage of the legislation, resulted in a more expansive set of health supplies to be GST-free. But the key action was food.

Now, it's worth reflecting on the fact that a key part of the introduction of the GST was to replace Australia's existing Wholesale Sales Tax, which had been around since 1930.

The WST was plagued with a litany of issues, most significant of which was its narrow base. Most pointedly, it only taxed a narrow range of goods, but not services. And in 1998, services made up two thirds of Australia's economic activity.

The WST also suffered from unnecessary complexity.

By 1999, it had a multiple rate structure, with 6 rate schedules ranging from 12% to 45% depending on the classification of goods. And there were significant complexities for new products entering the market, with many goods that did not neatly fall into the legislative classifications.

The proposed GST was poised not only to broaden the base – but to make classification difficulties a thing of the past.

But of course, the food issue would mean classifications would remain a challenge for the future.

Almost 25 years later, and with innovative new products entering the market the debate concerning GST classification continues.

ATO Assistant Commissioner Andrea Wood will delve into the continued complexities of GST product classification tomorrow, so I suggest you head to that session if you can.

Complexities and risks after the implementation of the GST

So, the GST legislation passed, but new complexities and risks arose with its implementation.

On Saturday 1 July 2000, the price of approximately 3 billion products changed overnight, with Coles and Woolworths alone updating the price for 50 million products.

At the time, Treasurer Costello likened the introduction of GST to the AFL Grand Final, day one of the Boxing Day Test, and election day all

rolled in one. He said “...a hundred years ago we were becoming a Federation, we abolished Customs posts on all our State borders, every price changed. But even that was not as big as this”.

I remember being in Brisbane on that Saturday and getting a call from the head of the Treasurer’s tax reform unit who was pleased, relieved, and maybe a little surprised that the transition seemed to have gone so smoothly.

It is interesting with the current media scrutiny on grocery prices, as our colleagues at the ACCC had a much more significant task when GST was implemented.

Our new generation of GST practitioners may only distantly remember movie rental chain Video Ezy, but at the time they attracted the ire of the ACCC for price exploitation after allegedly using GST as an excuse to prematurely increase prices.

This was one of over 6,000 GST-related matters the ACCC investigated, resulting in nearly \$10 million in refunds to consumers for price gouging.

Naturally, while the price changes were the public focus, for tax administrators and practitioners alike, the introduction of the GST presented an unprecedented task.

The ATO conducted an extensive 2-year education, awareness and compliance campaign to ready businesses for the introduction of the new tax system, which included:

- 5,200 seminars and workshops
- 170 million publications
- 8.2 million phone calls
- 286 million website hits
- 440,000 ATO advisory visits, and
- 143,000 written requests for GST technical advice.

The complexities, risks and opportunities we face today

In the first year of GST (2000–01), we collected \$23.8 billion in GST. This has grown to \$81.3 billion in GST in 2022–23, now collected on

behalf of taxpayers by 3.3 million registered businesses, including 2.5 million small business.

While many complexities have resolved over time, many still exist.

GST gap

A key measure for our GST administration is the **GST gap**, which is one of 19 tax gaps we estimate and publish. The GST gap is our estimate of the amount of GST that should be collected, but isn't.

It's both a system level performance measure and also a transparency measure.

As a system performance measure, we aim for the gap to be as low as sensibly possible. To do this, we engage with a wide range of stakeholders to address issues and maximise voluntary compliance.

As a transparency measure, the tax gap gives the community insight into how the tax system is operating. It has been an extremely useful tool for us since we began publishing it in 2012.

Our latest tax gap estimate showed the GST gap declined during COVID-19, where, unsurprisingly, we saw a marked change in consumer spending – there were fewer cash transactions as people shifted to buying more things online, as well as fewer transactions in those sectors where historically we know GST has not always been fully collected or remitted, such as some businesses dealing in cash.

During COVID-19, we witnessed a significant decline in the net GST gap to a historic low of \$1.9 billion. Post-COVID-19, we have seen a rebound and upward trend in the gap.

This has not only been due to a return of some former bad behaviour by some, but also an emergence of new opportunistic fraud being marketed through social media that saw fake GST refunds being claimed.

Shadow economy and GST fraud

Outside of people trying to do the right thing, but perhaps simply making honest mistakes or keeping poor records, the key driver in the tax gap is the small number of people who are deliberately trying to defraud the system.

These fraudsters range from those involved in complex criminal activity, to opportunistic fraud, both of which are a part of what we call

the shadow economy, which we estimate to cost around \$16 billion in taxes and excises not collected.

All indirect tax systems are inherently susceptible to fraud. And despite the 20th century European consensus I mentioned earlier, indirect tax systems with refundable credits are particularly vulnerable.

We need to balance the need for legitimate businesses to receive their legitimate refunds with stopping fraudulent refunds.

The most recent attacks on our GST revenue base see criminals and other fraudsters utilising advanced technology, phishing, scams, identity theft and social media to defraud the GST system.

The highly publicised **Operation Protego** GST fraud event is probably familiar to everyone in this room, and served as an example of how quickly a fraud threat can be proliferated through social media and other channels.

The fraud involved an individual inventing a fake business, lodging a fraudulent ABN application, and submitting fictitious BASs, to attempt to gain a refund of GST.

Thankfully the fraud has been contained and as part of Operation Protego we have:

- taken compliance action on more than 57,000 clients
- stopped around \$2.7 billion in fraudulent GST refunds from being paid to individuals seeking to exploit the tax system, and
- raised just under \$2 billion in liabilities related to fraudulent GST refunds that were paid to clients.

We are continuing to apply a range of debt recovery actions and proceeds of crime referrals to the AFP and departure prohibition orders are also being actively considered.

Through our work with law enforcement and through our **ATO Serious Financial Crime taskforce**, we have seen more than 100 suspected perpetrators arrested, including members of outlaw motorcycle gangs, organised criminal organisations, and youth crime gangs.

We are currently implementing a suite of measures and administrative actions to better protect the system from these types of attacks now and into the future.

Our focus on enhancing counter fraud measures has been bolstered this year through specific Government funding for our Counter Fraud Program over the next 4 years.

Under this program, we will continue to grow the capability and tools we need to respond to fraud in an agile and sophisticated way, collecting data and information to detect and address fraud in close to real time.

Large business assurance

In the large market we have seen that the **Justified Trust program** for Top 100 and Top 1000 businesses has driven improvements in these taxpayers' GST performance, including significant uplifts in governance and system controls.

As these programs mature, we will continue to tailor our engagement with taxpayers previously subject to a GST assurance review. Our future vision is for more targeted and less resource intensive justified trust reviews.

Deputy Commissioner Rebecca Saint and Director Virginia Gogan will be speaking later today about our vision for GST compliance for public and multinational businesses, and the future direction for our engagement with these taxpayers.

It's true that the bulk of businesses registered for GST are small businesses, but large public and multinational businesses actually collect around 60% of all GST. So it is not just appropriate, but vital, that we focus on their performance also.

Product classification

The classification of food and health products for GST purposes, often referred to collectively as GST product classification, is an ongoing challenge for taxpayers and the ATO.

It is legally complex and highly fact dependent, which creates great challenges.

These challenges have only increased over time with the diverse range and evolution of products, many of which did not exist when the law was drafted.

Recent challenges have included whether products involving flavoured vegetables and grains or pasta are, or should be considered, 'food of a

kind marketed as a prepared meal'.

In this most recent case, the Federal Court criticised the food classification provisions as containing arbitrary exemptions and unarticulated concepts. Given the haste of the development of these classifications back in the beginning, this is not surprising.

We have made concerted efforts to address highest priority product classification issues through modern public advice to help taxpayers to get it right, and in doing so engage with stakeholders across all parts of the industry to ensure we understand priority issues.

I know this area is of some interest to you all and we have a panel session later today on this topic, whereas I mentioned earlier, our Assistant Commissioner who leads the development of GST public and private advice, Andrea Wood, will delve into our recent public guidance.

GST into the future

In 2024, it shouldn't come as a shock to anyone that digitalisation is considered one of the biggest opportunities and challenges for the tax office and the broader GST system.

Protecting and future-proofing GST are core elements of the ATO's 2030 vision for GST, which is why the ATO is investing in the Future of Tax Administration program. This program is a mechanism for addressing vulnerabilities and complexities in the system, and undertaking compliance work to address behaviours of concern.

A key focus area in our **2024–25 Corporate Plan** is blueprinting a future digitalised tax experience for small businesses that is seamless, and supportive.

A big question is how a digital first approach can bring small business taxpayers into the electronic system without alienating them.

We know that digitally engaged small businesses with good record keeping practices, and with support from good tax professionals, are more likely to not only be compliant with their tax obligations, but also get it right the first time.

In recognising that the focus for small business is on running their business and striving for a balance between work, family and compliance obligations, the ATO has been exploring strategies to

support taxpayers in getting their tax right from the start, providing more time for them to focus on their business – making GST 'just happen'.

This year, ATO pilot programs will focus on:

- incentivising more frequent payment and reporting
- reducing complexity through embedding rules and logic into small business software
- empowering small business with data.

I noted earlier that, adopting the GST model in Australia was on the basis that the multi-stage VAT was more resistant to fraud, or so was the international consensus at the time. Maybe the refund fraud at scale and speed casts some doubt on this.

Perhaps the digital approach, possibly combined with a different collection perspective, will offer a more robust way forward.

Conclusion

As technology and the tax system evolves over time so does your role as tax professionals.

This environment reinforces the need for the ATO and the profession to stay aligned, and to continue to collaborate to protect the integrity of the GST system and to ensure we create a level playing field for good tax agents, as the vast majority of tax practitioners do the right thing.

I noted at the 2024 Tax Summit that since commencing as the Commissioner of Taxation I have witnessed the profession's shared commitment to improving the taxpayer experience as 'influencers' to 19 million taxpayers, clients and partners across the Australian tax system.

Our job is not always easy, and I thank you for your continued commitment to the profession and in maintaining the integrity of the tax system.

Images

Rob Heferen, Commissioner of Taxation

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