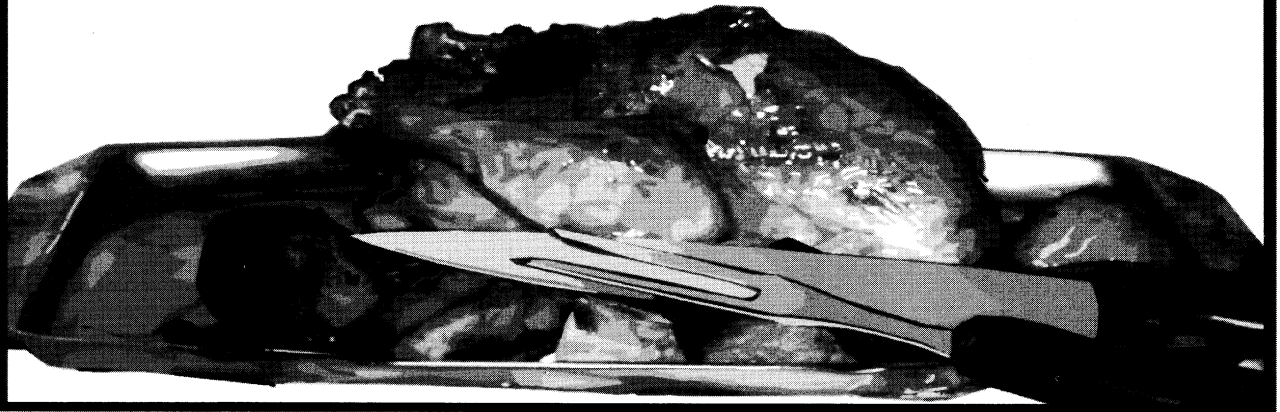


BALANCE

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The GST: the whole legal chook



Despite the suggestion made in Parliament recently that the government seems to be developing a cook book rather than a Goods and Services Tax, D Day for the introduction of GST is getting closer and the implications of this for the legal profession has been a subject of study.

So far this year the Law Council of Australia has made six submissions to the Senate Select Committee on a New Tax System regarding the GST's impact on the legal profession and access to justice.

The council's analysis has indicated that legal fees would need to increase, on average, by about 8% to counter the effect of a GST. At the same time there would be few, if any, savings made by a legal practice under a GST as such practices would not be affected by the abolition of many of the indirect taxes that the GST replaces.

Although the GST is not set to apply to July 1, 2000, business dealings entered into prior to that date will be affected by the GST or the transitional provisions and as such require attention now. Deeds, contracts and leases that go beyond July 1, 2000 are examples that will require provision for the GST. In that instance it can be argued that the GST is here already.

Solicitors are being encouraged to consider the implications of the introduction of the GST by way of ascertaining from their

clients a clear indication of who will bear the costs of the GST once its introduced; i.e. the vendor, the lessor or the lessee.

Phillip Wiseman, Chairman of the Taxation subcommittee of the NSW Law Society's Business Law Committee, suggests solicitors draft a suitable clause for inclusion in agreements to reflect the transitional provisions.

"For example, a suitable clause in a commercial lease might read: 'The amounts payable by the lessee to the lessor under this Lease do not include any goods and services tax ('GST') If any GST is or becomes chargeable with respect to the payment by the lessee to the lessor of rent or any other amount under this Lease, the lessee must pay the GST or reimburse the GST...' and so on.

"If solicitors seek and obtain instructions now from their clients in relation to contracts and agreements likely to go beyond 2000, and provide for them in a satisfactory way in the documentation, they will certainly reduce the possibility of disputes occurring later on involving their clients with regard to the transitional provisions of the GST legislation and more importantly avoid unhappy clients at that time."

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**LAW SOCIETY OF THE
NORTHERN TERRITORY**

Level 11, NT House
22 Mitchell Street
DARWIN NT 0800

GPO Box 2388
DARWIN NT 0801

Telephone: (08) 8981 5104
Fax: (08) 8941 1623

Email: lawsocietynt@bigpond.com



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