

19 March 2015

Australia-India Comprehensive Economic Cooperation Agreement  
Free Trade Agreement Division  
Department of Foreign Affairs and Trade  
RG Casey Building  
John McEwen Crescent  
BARTON ACT 0221

Dear Sir/Madam,

**Re: Australia-India Comprehensive Economic Cooperation Agreement (AICECA)**

Thank you for providing the opportunity to provide comments on the Australia-India Comprehensive Economic Cooperation Agreement.

VicRoads, Victoria's road management agency, has been working in India for over a decade but more so recently in response to an increased focus on their growing road toll through the UN Decade of Action on Road Safety. With over 231,000 people killed on Indian roads each year there is a pressing need to recognise this carnage as a major public health issue. The Indian central administration, supported by the major donors (World Bank and the Asian Development Bank), is responding by requiring a minimum of 10% of any infrastructure project to be dedicated to road safety interventions and has also drafted legislation to centralise road safety responsibility.

This is where VicRoads comes in. Recognised as being one of the world leaders in road safety management, we have been successful in tendering for significant road safety projects as well as being sought out to develop government-to-government relationships to assist agencies on a more non-commercial basis.

Our commercial activities have been difficult to manage and from reading other submissions it would seem that we experience similar challenges such as long, complicated bureaucratic hurdles and a general lack of capacity to manage contracts.

In the guidelines for preparing submissions I note that you welcome our views on any problems that we have encountered in doing business in India. We would like to specifically share our experience in relation to taxation for foreign organisations as we think this will also be an issue for other smaller Australian businesses, especially those that are government owned.

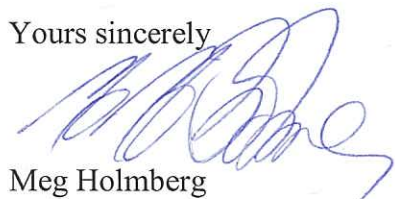
As a foreign organisation invoicing for services rendered we are liable to pay an upfront withholding tax on all our invoices. This withholding tax rate can be up to 40% (our rate has

been deemed to be 15% by the Federal Tax Department). When the withholding tax is taken out of the invoice amount, the foreign organisation receives 'tax credits' which can be claimed against a tax liability in the home country, in our case in Australia. This arrangement is feasible for private companies that pay income tax as they can claim their tax credits against their income tax liability. However, as a government organisation VicRoads is not liable for income tax and therefore cannot reclaim the tax credits. We therefore automatically lose 15% off the contract price which we either have to build back into the contract price or write-off as a loss to the business.

It is important to note that this is a tax on revenues and not on profit so whether we make a profit or not on project activities we still pay the 15% on revenues. It is complex and expensive to manage, and the implications of this withholding tax will apply to other government organisations that are not liable for income tax in Australia. VicRoads is aware of failed contract negotiations for one other Victorian government organisation as a result of these tax rules. For any smaller Australian business wanting to export goods and services to India these taxation rules are a significant deterrent.

If you need any further information I can be contacted by phone 03 9854 2283 or mobile 0418 516 954. Alternatively, you can email me at [meg.holmberg@roads.vic.gov.au](mailto:meg.holmberg@roads.vic.gov.au)

Yours sincerely



Meg Holmberg  
Manager, International Projects