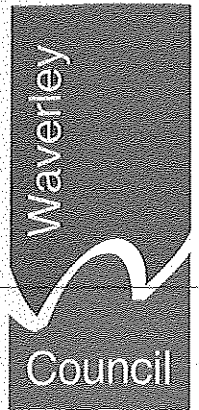


22 May 2012

The General Manager
Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600



Submission re:
Exposure Draft - GST Treatment of Australian taxes fees and charges

Dear Sir or Madam,

This submission addresses the proposed amendments of *A New Tax System (Goods and Services Tax) Regulations 1999*.

Background

Waverley Council (Council) is an Australian government agency, which imposes various taxes, fees, and charges and which is registered for GST.

Council welcomes the proposed amendments and considers that they will reduce uncertainty in the imposition, or otherwise, of GST to the taxes, fees, and charges that it imposes.

Council considers that a minor refinement of the proposed amendment will further reduce the current uncertainty that is inherent in clause 81-10.01(c) of the proposed Regulation, which states that a fee for hire, use of, or entry to a facility (except for an entry fee to a national park) is consideration for a supply. Council notes that this item will remain in force, after adoption of the proposed amendments.

Recommendations

1. That clause 81-10.01(c) of the Regulation be repealed.
2. That a new item be included within Regulation 81-15.01, to exempt an entry fee to a national park from GST.

Remarks

In our opinion, the unqualified use of the word "facility" in clause 81-10.01(c) leads to inexplicable ambiguity in this item. The legislation does not define the word "facility", which takes its ordinary meaning. A (general) definition¹ of the word "facility" is "something that makes possible the easier performance of any action". A more specific definition² of the word is "a building or complex of buildings designed for a specific purpose, as for the holding of sporting contests". The exception in the clause refers to national parks, which are not buildings. Hence, we are of the opinion that, in this clause, the more general definition applies.

The general definition includes many and varied possibilities. For example, the following things that could fall within its meaning include:

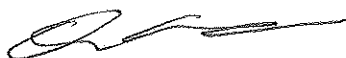
- parks, which make it easier to undertake recreational activities;
- parking stations, which make it easier to park vehicles;
- debit and credit card facilities, which make it easier to make payments; and
- roads and footpaths, which make it easier to travel.

Clauses 81-10.01(a) and (b) suggest that a road is not a facility; because, if it were a facility, these clauses would be superfluous to clause (c).

Consequently, taxpayers are uncertain as to the intended scope of this clause. In addition, we consider that, except for the reference to national parks, the proposed clause 81-10.01(g) adequately covers the same items that clause (c) does. Therefore, the proposed clause can replace it. We think it more appropriate to exempt entry fees to national parks within Regulation 81-15.01, rather than as an exception to taxable supplies.

If you would like more information, please telephone me on 02 9369 8025. You can also contact me by facsimile (02 9387 4752) and by e-mail (dons@waverley.nsw.gov.au).

Yours faithfully,



Donald Setchell FIPA
Taxation Manager

¹ The Macquarie Dictionary rev. ed. (1985) s.v. "facility"

² *ibid*