

16 February 2016

Mr Tom Reid
Division Head
Law Design Practice
The Treasury
Langton Crescent
PARKES ACT 2600

Via email: TaxLawDesign@treasury.gov.au

Dear Mr Reid

Exposure draft – Miscellaneous Amendments to Taxation and Superannuation Laws 2016

Thank you for the opportunity to provide feedback on the exposure draft for the Tax and Superannuation Legislation Amendment Bill (2015 Measures No.1) Bill 2015.

The Property Council is the peak body representing the interests of owners and investors in Australia's \$670 billion property investment industry. Our membership includes Australia's major investors, property owners and developers across the residential, commercial, retail, retirement living and industrial sectors. There are over 2,000 retirement villages across the nation, housing more than 184,000 senior Australians. Our members include retirement village operators who provide care services to significant numbers of older people.

Our comments concern the proposed changes to s.38-30 (Home Care etc.) of the *A New Tax System (Goods and Services Tax) Act 1999* ("GST Act").

The amendment proposes to repeal s.38-30(2) which provides that the supply of care is GST-free if the supplier receives funding under the *Home and Community Care Act 1985* in connection with the supply. The Explanatory Memorandum provides the repeal is necessary as funding under this legislation ceased a number of years ago and is therefore redundant.

Going forward, the intention is that this type of care be covered by s.38-30(4), which provides that a supply of care is GST-free if: (a) the supplier receives funding from the Commonwealth, a State or a Territory in connection with the supply, and (b) the supply of care is of a kind determined in writing by the Aged Care Minister.

We consider that s.38-30(2) should be retained because:

- (a) The Home and Community Care (HACC) Program, although now largely consolidated into the Commonwealth Home Support Programme (CHSP), continues to operate in Victoria and Western Australia (see the Department of Social Security's fact sheet, *Commonwealth Home Support Programme*, issued October 2015). The nature of care provided under the HACC Programme and CHSP are substantially the same.
- (b) The additional obligation that care be 'of a kind determined by the Aged Care Minister' in s.38-30(4) (which does not appear in s.38-30(2)) creates complexity for the taxpayer and higher compliance risks. The relevant determination is *GST-free Supply (Care) Determination 2000* which came into effect on 1 July 2000.

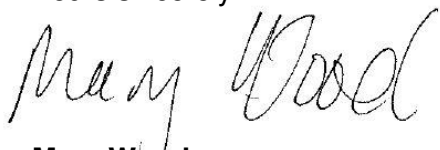
It is clear that Government remains committed to the provision of high-quality care to recipients. However, the care sector is rapidly evolving and innovating, such that some types of care may arguably fall outside the scope of the 15-year old Ministerial determination and therefore be subject to GST, which appears unintended. This is a disadvantage to those individuals who require care, and creates uncertainty and additional compliance costs for the taxpayer about the correct GST treatment of the supply. This uncertainty can be avoided by retaining s.38-20(2) which does not contain this additional obligation.

We therefore recommend that s.38-30(2) be retained and amended to take into account the CHSP. When funding programmes transition further in the next few years into the CHSP, as outlined in the fact sheet referred to above, we recommend Treasury monitor the operation of s.38-30 of the GST Act to ensure appropriate updates are made which ensure certainty about the GST treatment of home care.

These changes will help ensure older people are able to continue receiving appropriate care services and are not unnecessarily disadvantaged.

Please contact Leida Pirts, Senior Policy Manager – Retirement Living, on (07) 3225 3007 or LPirts@propertycouncil.com.au if you would like to discuss this submission.

Yours sincerely



Mary Wood
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Property Council of Australia