

17 March 2015

Mr Michael Pini
Senior Tax Counsel
Australian Taxation Office
55 Elizabeth Street
BRISBANE QLD 4000
Michael.Pini@ato.gov.au

CC: Mr Neil Dixon
Neil.Dixon@ato.gov.au

Dear Mr Pini

Application of GST Ruling GSTR 2011/1

Thank you for meeting with members of the Retirement Living Tax Committee in 2014 to discuss a number of GST issues impacting on the retirement living industry.

As discussed in the meeting, members are seeking clarity on the interpretation of the phrase “commercially committed” used in the ruling, and how it applies to different scenarios including:

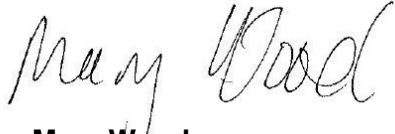
- (a) when significant commercial steps have been taken;
- (b) where a deposit/option has been entered into by another member of the same economic group;
- (c) land swap between members of the same economic group; and
- (d) the transfer of adjacent land between members of the same GST group;

To facilitate this, a draft ATO ID addressing each of these scenarios is attached for your consideration.

If you have any queries about this letter, please contact Ms Leida Pirts, Senior Policy Manager – Retirement Living, on (07) 3225 3007.

We look forward to discussing this submission with you in more detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mary Wood', written in a cursive style.

Mary Wood
Retirement Living Executive Director
Property Council of Australia

**Draft ATOID 1: Commercially committed to development
of a retirement village under GSTR 2011/1 – significant commercial steps**

Issue

1. Is Entity A, an owner-operator of a retirement village, entitled to apply the interpretation in paragraph 32 of GSTR 2011/1 in determining the consideration for sale of the retirement village in each of the scenarios outlined in this Interpretative Decision?

Decision

2. Yes, in each of the scenarios outlined in this Interpretative Decision, Entity A is entitled to apply the interpretation in paragraph 32 of GSTR 2011/1 in determining the consideration for sale of the retirement village on the basis that it was 'commercially committed' to construct and develop the retirement village in accordance with the arrangements outlined in that ruling.

Facts

3. Entity A is registered for GST. It constructs, leases and (after 27 April 2011) sells a retirement village under an arrangement that has the features outlined in paragraphs 6 & 7 of GSTR 2011/1. The sale is a taxable supply on the basis that the retirement village independent living units are 'new residential premises' for GST purposes.
4. Prior to 27 April 2011, one or more of the following occurred:
 - a. Entity A was party to an arrangement, where the arrangement is legally binding, with another entity (eg the purchaser) to construct/ develop and then operate the village (whether or not that arrangement required the sale of the village).
 - b. Entity A was a preferred tender (however described) in the final step in a bidding or tendering process relating to the arrangement.
 - c. Entity A had directly made (on its own account or with associates) acquisitions, having a total GST exclusive value of at least \$200,000, in relation to the development of the village.
 - d. Entity A had directly incurred (on its own account or with associates) internal direct costs, of at least \$200,000, in relation to the development of the village.

Reasons for Decision

5. GSTR 2011/1 sets out the Commissioner's views on the GST consequences for the supplier of a retirement village facility in the circumstances set out in paragraph 6 of that Ruling.
6. In particular, the Commissioner outlines the basis on which he considers the 'repayment benefit' received by the supplier forms part of the consideration for the sale.

7. In GSTR 2011/1 (see paragraph 30-39), the Commissioner acknowledges and accepts that prior to the amendment of GSTR 2004/9 on 27 April 2011, taxpayers could reasonably have interpreted that Ruling to the effect that liabilities to repay ingoing contributions which the purchaser of a retirement village became exposed to as a result of statute should not be included in the vendor's consideration for the supply of the village ('Transitional Treatment').
8. The Commissioner further acknowledges in GSTR 2011/1 (see paragraph 34) that a vendor of a retirement village is entitled to apply that Transitional Treatment and not include the 'repayment benefit' in the consideration for the sale where it can be objectively determined that before 27 April 2011, the vendor became commercially committed to construct and develop a retirement village in accordance with the arrangements described in the Ruling.
9. An entity will be taken to be commercially committed to the construction and development of a retirement village prior to 27 April 2011 where before that date it has incurred, or become legally required to incur, significant financial costs for the purposes of entering into or carrying out an arrangement covered by GSTR 2011/1, with objective evidence being required to substantiate that intention.
10. In each of the factual scenarios described in this Interpretative Decision, the Commissioner accepts that the vendor was 'commercially committed' to the construction and development of the retirement village prior to 27 April 2011 and is therefore entitled to apply Transitional Treatment to identify the consideration for the sale of the retirement village and hence the GST payable.
11. This conclusion is reached on the basis that the underlying purpose of the Transitional Treatment is to acknowledge that taxpayers are likely to have taken GST into account in making and then acting upon investment decisions.
12. In particular, taxpayers may have become 'commercially committed' to the construction and development of a retirement village on an expectation that the interpretation of GSTR 2004/9 as it was in force prior to 27 April 2011 would apply such that the 'repayment benefit' would not need to be recognised as consideration for the sale. Such taxpayers may have made different investment decisions had the recognition of the 'repayment benefit' as consideration for GST purposes as outlined in GSTR 2011/1, and hence the significantly higher GST liability, been made clearer prior to 27 April 2011.
13. Given that reasonable interpretation of GSTR 2004/9 (as it was in force prior to 27 April 2011), it would be inequitable for such taxpayers to be required to determine their GST liability on the basis set out in GSTR 2011/1 where they were commercially committed to the development of the village prior to that Ruling being issued.
14. In the context of each of the scenarios outlined in this Interpretative Decision, and subject to objective evidence as to intention being available, the Commissioner accepts that the Entity was commercially committed to the development prior to 27 April 2011 and hence is entitled to apply Transitional Treatment on the basis that:
 - a. Because the arrangement was legally binding, Entity A was committed to the development of the Village.

- b. Having proceeded to the final step of a binding tender process, including the significant costs associated with such a process, indicates that Entity A was committed to the development of the Village.
 - c. The significant expenditure incurred with external suppliers indicates that Entity A was committed to the development of the Village.
 - d. The significant internal costs incurred indicates that Entity A was committed to the development of the Village.
15. In each instance, while not a directly relevant provision of the GST Act, Entity A would be taken to be 'commercially committed' for the purposes of the transitional provisions relevant to the application of section 40-75 (2B) of the GST Act as introduced following the decision in *Gloxinia*.
16. In the interests of certainty and ease of administration and compliance, the Commissioner considers it appropriate that a consistent approach is adopted.

**Draft ATOID 2: Commercially committed to development
of a retirement village under GSTR 2011/1 – deposit / option entered
into by another member of the same economic group**

Issue

1. Is Entity B, an owner-operator of a retirement village, entitled to apply the interpretation in paragraph 32 of GSTR 2011/1 in determining the consideration for the sale of the retirement village?

Decision

2. Yes, Entity B is entitled to apply the interpretation in paragraph 32 of GSTR 2011/1 in determining the consideration for sale of the retirement village on the basis that it was 'commercially committed' to construct and develop the retirement village in accordance with the arrangements outlined in that ruling.

Facts

3. Entity A paid a deposit (or alternatively an option fee) of \$1mil for a block of vacant land prior to 27 April 2011.
4. It did so with the intention of constructing, developing and subsequently selling a retirement village under an arrangement that has the features set out in paragraphs 6 & 7 of GSTR 2011/1. Objective evidence such as feasibility studies, business plans, development agreements, finance approvals and significant expenditure support this intention.
5. Settlement is long / delayed and occurs after 27 April 2011. Prior to settlement, Entity A transfers the contract/deposit or the option (as appropriate) to Entity B, a member of the same economic group, as Entity B was determined to be the more appropriate vehicle in which to develop the retirement village. Entity B will do so in a manner consistent with that originally intended by Entity A.
6. The transfer occurs either:
 - a. Before 27 April 2011 while Entity A and Entity B are:
 - i. Members of the same economic group, but not members of the same GST group; or
 - ii. Members of the same GST group; or
 - b. On or after 27 April 2011 while Entity A and Entity B are:
 - i. Members of the same economic group, but not members of the same GST group; or
 - ii. Members of the same GST group.
7. Entity B subsequently develops the retirement village and sells it to PurchaserCo after 27 April 2011. The sale is a taxable supply on the basis that the retirement village independent living units are 'new residential premises' for GST purposes.
8. Both Entity A and Entity B are registered for GST.

Reasons for Decision

9. GSTR 2011/1 sets out the Commissioner's views on the GST consequences for the supplier of a retirement village facility in the circumstances set out in paragraph 6 of that Ruling.
10. In particular, the Commissioner outlines the basis on which he considers the 'repayment benefit' received by the supplier forms part of the consideration for the sale.
11. In GSTR 2011/1 (see paragraph 30-39), the Commissioner acknowledges and accepts that prior to the amendment of GSTR 2004/9 on 27 April 2011, taxpayers could reasonably have interpreted that Ruling to the effect that liabilities to repay ingoing contributions which the purchaser of a retirement village became exposed to as a result of statute should not be included in the vendor's consideration for the supply of the village ('Transitional Treatment').
12. The Commissioner further acknowledges in GSTR 2011/1 (see paragraph 34) that a vendor of a retirement village is entitled to apply that Transitional Treatment and not include the 'repayment benefit' in the consideration for the sale where it can be objectively determined that before 27 April 2011, the vendor became commercially committed to construct and develop a retirement village in accordance with the arrangements described in the Ruling.
13. An entity will be taken to be commercially committed to the construction and development of a retirement village prior to 27 April 2011 where before that date it has incurred, or become legally required to incur, significant financial costs for the purposes of entering into or carrying out an arrangement covered by GSTR 2011/1, with objective evidence being required to substantiate that intention.
14. In each of the factual scenarios described in this Interpretative Decision, the Commissioner accepts that Entity B was 'commercially committed' to the construction and development of the retirement village prior to 27 April 2011 and is therefore entitled to apply Transitional Treatment to identify the consideration for the sale of the retirement village and hence the GST payable.
15. This conclusion is reached on the basis that the underlying purpose of the Transitional Treatment is to acknowledge that taxpayers are likely to have taken GST into account in making and then acting upon investment decisions.
16. In particular, taxpayers may have become 'commercially committed' to the construction and development of a retirement village on an expectation that the interpretation of GSTR 2004/9 as it was in force prior to 27 April 2011 would apply such that the 'repayment benefit' would not need to be recognised as consideration for the sale. Such taxpayers may have made different investment decisions had the recognition of the 'repayment benefit' as consideration for GST purposes as outlined in GSTR 2011/1, and hence the significantly higher GST liability, been made clearer prior to 27 April 2011.
17. Given that reasonable interpretation of GSTR 2004/9 (as it was in force prior to 27 April 2011), it would be inequitable for such taxpayers to be required to determine their GST liability on the basis set out in GSTR 2011/1 where they

were commercially committed to the development of the village prior to that Ruling being issued.

18. In the context of each of the scenarios outlined in this Interpretative Decision, and subject to objective evidence as to intention being available, Entity A was commercially committed to the development prior to 27 April 2011 and hence would have been entitled to apply Transitional Treatment to a subsequent sale (eg had Entity A continued to develop the retirement village and sell it to PurchaserCo).
19. The Commissioner accepts that as a matter of commercial reality, projects will often be transferred between related parties to ensure that the appropriate entity within an economic group has carriage of the development.
20. As noted above, the principle behind the availability of Transitional Treatment is that a taxpayer who entered into a retirement village development prior to 27 April 2011 on the basis that the repayment benefit would not be included in the consideration they would be taken to receive for GST purposes should not be unfairly disadvantaged by the clarification of the Commissioner's views upon the publication of GSTR 2011/1 and amendment to GSTR 2004/9 on 27 April 2011.
21. That principle should be equally applied to economic groups and GST groups as it is applied to individual taxpayers given that any transactions between such entities do not affect an economic change in circumstances. Such transactions should, in practice, be disregarded for the purposes of determining the application of Transitional Treatment under GSTR 2011/1.
22. On that basis, provided that Entity A and Entity B were members of the same economic group at the time of transfer from Entity A to Entity B, the Commissioner accepts that because Entity A was commercially committed to the development prior to 27 April 2011, Entity B will be taken to have been so committed and is therefore entitled to apply Transitional Treatment to the sale of the retirement village to PurchaserCo.
23. Subject to Entity A and Entity B being members of the same economic group at the time of transfer from Entity A to Entity B, it does not alter Entity B's entitlement to apply Transitional Treatment whether the transfer from Entity A to Entity B occurred on or after or prior to 27 April 2011 or whether Entity A and Entity B are members of the same GST group at that time.

**Draft ATOID 3: Commercially committed to development
of a retirement village under GSTR 2011/1 – landswap between
members of the same economic group**

Issue

1. Is Entity A, an owner-operator of a retirement village, entitled to apply the interpretation in paragraph 32 of GSTR 2011/1 in determining the consideration for the sale of the retirement village?

Decision

2. Yes, Entity A is entitled to apply the interpretation in paragraph 32 of GSTR 2011/1 in determining the consideration for sale of the retirement village on the basis that it was 'commercially committed' to construct and develop the retirement village in accordance with the arrangements outlined in that ruling.

Facts

3. Entity A acquired vacant land prior to 27 April 2011 that was to be developed into a 300 ILU retirement village and on sold under an arrangement that has the features set out in paragraphs 6 & 7 of GSTR 2011/1. Objective evidence such as feasibility studies, business plans, development agreements, finance approvals and significant expenditure support this intention.
4. Entity B acquired land adjacent (or nearby) prior to 27 April 2011 that was to be developed into an aged care facility which it continues to hold and operate. Objective evidence such as feasibility studies, business plans, development agreements, finance approvals and significant expenditure support these intentions.
5. Entity A and Entity B are members of the same economic group.
6. It was subsequently determined commercially that the aged care land held by Entity B would be better suited for the development of ILUs by Entity A, and that part of the retirement village land held by Entity A would be better suited for the development of the aged care facility by Entity B. The retirement village land held by Entity A was subdivided to facilitate the swap.
7. The swap of land occurred between Entity A and Entity B such that, Entity A acquired the entirety of the 'aged care land' from Entity B and Entity B acquired the 'subdivided RV land' from Entity A.
8. The transfer occurs either:
 - a. Before 27 April 2011 while Entity A and Entity B are:
 - i. Members of the same economic group, but not members of the same GST group; or
 - ii. Members of the same GST group; or
 - b. On or after 27 April 2011 while Entity A and Entity B are:

- i. Members of the same economic group, but not members of the same GST group; or
 - ii. Members of the same GST group.
- 9. The commercial objective of neither entity (as objectively evidenced) changed. Entity A continued its development of a 300 ILU retirement village, which was constructed, developed then sold to PurchaserCo on or after 27 April 2011. The sale is a taxable supply on the basis that the retirement village independent living units are 'new residential premises' for GST purposes.
- 10. Entity B constructed and continued to operate the intended aged care facility on the 'subdivided RV land' it acquired from Entity A under the landswap.
- 11. Both Entity A and Entity B are registered for GST.

Reasons for Decision

- 12. GSTR 2011/1 sets out the Commissioner's views on the GST consequences for the supplier of a retirement village facility in the circumstances set out in paragraph 6 of that Ruling.
- 13. In particular, the Commissioner outlines the basis on which he considers the 'repayment benefit' received by the supplier forms part of the consideration for the sale.
- 14. In GSTR 2011/1 (see paragraph 30-39), the Commissioner acknowledges and accepts that prior to the amendment of GSTR 2004/9 on 27 April 2011, taxpayers could reasonably have interpreted that Ruling to the effect that liabilities to repay ingoing contributions which the purchaser of a retirement village became exposed to as a result of statute should not be included in the vendor's consideration for the supply of the village ('Transitional Treatment').
- 15. The Commissioner further acknowledges in GSTR 2011/1 (see paragraph 34) that a vendor of a retirement village is entitled to apply that Transitional Treatment and not include the 'repayment benefit' in the consideration for the sale where it can be objectively determined that before 27 April 2011, the vendor became commercially committed to construct and develop a retirement village in accordance with the arrangements described in the Ruling.
- 16. An entity will be taken to be commercially committed to the construction and development of a retirement village prior to 27 April 2011 where before that date it has incurred, or become legally required to incur, significant financial costs for the purposes of entering into or carrying out an arrangement covered by GSTR 2011/1, with objective evidence being required to substantiate that intention.
- 17. In each of the factual scenarios described in this Interpretative Decision, the Commissioner accepts that Entity A was 'commercially committed' to the construction and development of the 300 ILU retirement village prior to 27 April 2011 and is therefore entitled to apply Transitional Treatment to identify the consideration for the sale of the retirement village and hence the GST payable.

18. This conclusion is reached on the basis that the underlying purpose of the Transitional Treatment is to acknowledge that taxpayers are likely to have taken GST into account in making and then acting upon investment decisions.
19. In particular, taxpayers may have become 'commercially committed' to the construction and development of a retirement village on an expectation that the interpretation of GSTR 2004/9 as it was in force prior to 27 April 2011 would apply such that the 'repayment benefit' would not need to be recognised as consideration for the sale. Such taxpayers may have made different investment decisions had the recognition of the 'repayment benefit' as consideration for GST purposes as outlined in GSTR 2011/1, and hence the significantly higher GST liability, been made clearer prior to 27 April 2011.
20. Given that reasonable interpretation of GSTR 2004/9 (as it was in force prior to 27 April 2011), it would be inequitable for such taxpayers to be required to determine their GST liability on the basis set out in GSTR 2011/1 where they were commercially committed to the development of the village prior to that Ruling being issued.
21. In the context of each of the scenarios outlined in this Interpretative Decision, and subject to objective evidence as to intention being available, Entity A was commercially committed to the development prior to 27 April 2011 and hence would have been entitled to apply Transitional Treatment to a subsequent sale (eg had Entity A continued to hold the land it originally acquired and then developed the retirement village and sold it to PurchaserCo).
22. The Commissioner accepts that as a matter of commercial reality, projects will often be transferred between related parties to ensure that the appropriate entity within an economic group has carriage of the development.
23. As noted above, the principle behind the availability of Transitional Treatment is that a taxpayer who entered into a retirement village development prior to 27 April 2011 on the basis that the repayment benefit would not be included in the consideration they would be taken to receive for GST purposes should not be unfairly disadvantaged by the clarification of the Commissioner's views upon the publication of GSTR 2011/1 and amendment to GSTR 2004/9 on 27 April 2011.
24. That principle should be equally applied to economic groups and GST groups as it is applied to individual taxpayers given that any transactions between such entities do not affect an economic change in circumstances. Such transactions should, in practice, be disregarded for the purposes of determining the application of Transitional Treatment under GSTR 2011/1.
25. On that basis, provided that Entity A and Entity B were members of the same economic group at the time of transfer of the 'aged care land' (on which Entity A constructed the retirement village) from Entity B to Entity A, the Commissioner accepts that because Entity A was commercially committed to the development prior to 27 April 2011 notwithstanding that the development was undertaken on different land, and is therefore entitled to apply Transitional Treatment to the sale of the retirement village to PurchaserCo.
26. Subject to Entity A and Entity B being members of the same economic group at the time of transfer of the 'aged care land' (on which Entity A constructed the

retirement village) from Entity B to Entity A, it does not alter Entity A's entitlement to apply Transitional Treatment whether the transfer from Entity B to Entity A occurred on or after or prior to 27 April 2011 or whether Entity A and Entity B are members of the same GST group at that time. The land at all times remained within the economic group and the transfer should be disregarded for determining Entity A's entitlement to apply Transitional Treatment.

**Draft ATOID 4: Commercially committed to development
of a retirement village under GSTR 2011/1 – transfer of adjacent land
between members of the same GST group.**

Issue

1. Is Entity B, an owner-operator of a retirement village, entitled to apply the interpretation in paragraph 32 of GSTR 2011/1 in determining the consideration for the sale of the entire retirement village (ie as situated on both Block A and Block B, whether or not amalgamated)?

Decision

2. Yes, Entity B is entitled to apply the interpretation in paragraph 32 of GSTR 2011/1 in determining the consideration for sale of the entire retirement village (ie as situated on both Block A and Block B, whether or not amalgamated) on the basis that it was 'commercially committed' to construct and develop the retirement village in accordance with the arrangements outlined in that ruling.

Facts

3. Entity A owns Block A on which it constructed 50 new ILUs which are leased prior to 27 April 2011.
4. Entity B owns Block B (which is adjacent to Block A) on which it constructed 50 new ILUs which are leased prior to 27 April 2011.
5. Entities A and B are members of the same GST group.
6. Blocks A and B are equal in size.
7. Entity A transfers its interest in Block A to Entity B on or after 27 April 2011 as an intra GST group supply.
8. Subsequent to the intra-group transfer of Block A by Entity A to Entity B, Entity B sells its interest in Block A and Block B (either as separate or amalgamated titles) to PurchaserCo.
9. The sale to PurchaserCo by Entity B is a taxable supply on the basis that the retirement village independent living units are 'new residential premises' for GST purposes.
10. Entity B is registered for GST at the time of sale to PurchaserCo.

Reasons for Decision

11. GSTR 2011/1 sets out the Commissioner's views on the GST consequences for the supplier of a retirement village facility in the circumstances set out in paragraph 6 of that Ruling.

12. In particular, the Commissioner outlines the basis on which he considers the 'repayment benefit' received by the supplier forms part of the consideration for the sale.
13. In GSTR 2011/1 (see paragraph 30-39), the Commissioner acknowledges and accepts that prior to the amendment of GSTR 2004/9 on 27 April 2011, taxpayers could reasonably have interpreted that Ruling to the effect that liabilities to repay ingoing contributions which the purchaser of a retirement village became exposed to as a result of statute should not be included in the vendor's consideration for the supply of the village ('Transitional Treatment').
14. The Commissioner further acknowledges in GSTR 2011/1 (see paragraph 34) that a vendor of a retirement village is entitled to apply that Transitional Treatment and not include the 'repayment benefit' in the consideration for the sale where it can be objectively determined that before 27 April 2011, the vendor became commercially committed to construct and develop a retirement village in accordance with the arrangements described in the Ruling.
15. An entity will be taken to be commercially committed to the construction and development of a retirement village prior to 27 April 2011 where before that date it has incurred, or become legally required to incur, significant financial costs for the purposes of entering into or carrying out an arrangement covered by GSTR 2011/1, with objective evidence being required to substantiate that intention.
16. In the factual scenario described in this Interpretative Decision, the Commissioner accepts that each Entity A and Entity B were 'commercially committed' to the construction and development of its respective retirement village development prior to 27 April 2011 as evidenced by the construction and operation prior to that date. Each is therefore entitled to apply Transitional Treatment to identify the consideration for the sale of the retirement village and hence the GST payable.
17. This conclusion is reached on the basis that the underlying purpose of the Transitional Treatment is to acknowledge that taxpayers are likely to have taken GST into account in making and then acting upon investment decisions.
18. In particular, taxpayers may have become 'commercially committed' to the construction and development of a retirement village on an expectation that the interpretation of GSTR 2004/9 as it was in force prior to 27 April 2011 would apply such that the 'repayment benefit' would not need to be recognised as consideration for the sale. Such taxpayers may have made different investment decisions had the recognition of the 'repayment benefit' as consideration for GST purposes as outlined in GSTR 2011/1, and hence the significantly higher GST liability, been made clearer prior to 27 April 2011.
19. Given that reasonable interpretation of GSTR 2004/9 (as it was in force prior to 27 April 2011), it would be inequitable for such taxpayers to be required to determine their GST liability on the basis set out in GSTR 2011/1 where they were commercially committed to the development of the village prior to that Ruling being issued.
20. The Commissioner accepts that as a matter of commercial reality, projects will often be transferred between related parties to ensure that the appropriate entity within an economic group has carriage of the development.

21. As noted above, the principle behind the availability of Transitional Treatment is that a taxpayer that entered into a retirement village development prior to 27 April 2011 on the basis that the repayment benefit would not be included in the consideration they would be taken to receive for GST purposes should not be unfairly disadvantaged by the clarification of the Commissioner's views upon the publication of GSTR 2011/1 and amendment to GSTR 2004/9 on 27 April 2011.
22. That principle should be equally applied to economic groups and GST groups as it is applied to individual taxpayers given that any transactions between such entities do not affect an economic change in circumstances. Such transactions should, in practice, be disregarded for the purposes of determining the application of Transitional Treatment under GSTR 2011/1.
23. By virtue of the operation of section 40-75(2A) of the GST Act, the sale of the Block A ILUs by Entity A to Entity B is disregarded for the purposes of determining whether the ILUs are new residential premises.
24. On that basis, because Entity A and Entity B were members of the same GST group at the time of transfer the 'new residential premises' status of the ILUs is effectively rolled over into Entity B's ownership period.
25. In the interests of certainty and ease of administration and compliance, the Commissioner considers it appropriate that a consistent approach is adopted whereby if Entity A would have been entitled to apply Transitional Treatment had it sold the Block A ILUs to PurchaserCo, Entity B is also entitled to apply Transitional Treatment on the sale to PurchaserCo.
26. In the context of the scenario outlined in this Interpretative Decision, because each of Entity A and Entity B were commercially committed to the development of its respective retirement village prior to 27 April 2011, Entity B can apply Transitional Treatment to its sale of the entire retirement village to PurchaserCo (ie as situated on both Block A and Block B, whether or not amalgamated) on the basis that the land at all times remained within the GST group and that the intention of the GST group did not alter.