

### **Housing Matters article**

NSW Federation of Housing Associations (2001) “Auditors ask questions about ITEC exemptions and the ‘75% test’”, *Housing Matters*, Volume 7, Issue 6, Pages 6&7

### **Auditors ask questions about ITEC exemptions and the ‘75% test’**

Now that the new tax system has been in place for a full year, auditors are examining the ways that the GST has been treated by housing associations.

Some auditors appear not be aware of the special provisions for charitable organisations and have questioned why housing associations have been able to claim back GST inputs for rents. They are asking for the specific reference or ruling about this..

As all housing associations should know, you **are** allowed to claim back inputs on housing that is provided by an ITEC, for charitable purposes.

There are two references that housing associations can give their auditor.

Firstly, they should refer the auditor to the specific section in A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999 SECT 38250 (see below for the excerpt)

Secondly, if the auditor requires more information housing associations should refer them to the taxreform site for a document about the charitable sector called “Resolved Issues”. It can be found at [http://www.taxreform.ato.gov.au/ind\\_partner/charities/qna/qna3.htm#5](http://www.taxreform.ato.gov.au/ind_partner/charities/qna/qna3.htm#5)

### **Section 38250**

Here is the relevant part of the Act

A NEW TAX SYSTEM (GOODS AND SERVICES TAX) ACT 1999 SECT 38250

38250 Nominal consideration etc.

(1) A supply is GST-free if:

(a) the supplier is a charitable institution, a trustee of a charitable fund, a gift-deductible entity or a \* government school; and

(b) the supply is for \* consideration that:

(i) if the supply is a supply of accommodation—is less than 75% of the \* GST inclusive market value of the supply; or

(ii) if the supply is not a supply of accommodation—is less than 50% of the GST inclusive market value of the supply.

(2) A supply is GST-free if:

(a) the supplier is a charitable institution, a trustee of a charitable fund, a \* gift-deductible entity or a \* government school; and

(b) the supply is for \* consideration that:

(i) if the supply is a supply of accommodation—is less than 75% of the cost to the supplier of providing the accommodation; or

(ii) if the supply is not a supply of accommodation—is less than 75% of the consideration the supplier provided, or was liable to provide, for acquiring the thing supplied.

## **Resolved issues**

The following excerpt is from the Resolved Issues document.

### **Cost of Supply and Market Value Tests**

#### **Issue**

*How does an entity make a distinction between "commercial" and "non-commercial" activities using the "cost of supply and "market value tests? An entity may have difficulty in benchmarking the market value of its supplies where it holds*

#### **Principle**

The commercial activities of charities will be taxable but the non-commercial supplies by charities will be GST-free. Anything supplied by a charity is GST-free if the consideration is less than 50% of the GST inclusive market value except for accommodation which is less than 75% of the GST inclusive market value or less than 75% of the "cost of supply". It is important to note that it is the supply that is GST-free not the "supplier".

The guidelines for the determination of "Market Value" and the "Benchmark Market Values" are now included below. The purpose of the Market Value Guidelines is to provide guidance in the establishment of market value when used with respect to s38-250 (1) of A New Tax System (Goods and Services) Act 1999. The Benchmark Market Values provide a basis or benchmark of the market value of a range of supplies for Charities to use as a reference point. Supplies benchmarked are limited to the following types of organisations (and supplies) by those organisations;

- supported accommodation and community housing (long term accommodation rates)
- crisis care (short term and long term accommodation as appropriate)
- retirement villages (long term accommodation)
- other residential housing, for example manses for the clergy (long term

- accommodation)
- 'Meals on Wheels', charity 'soup kitchens' and organisations that prepare and supply
- meals to the frail, homeless or needy (food guidelines)