



HOUSING FOR THE AGED ACTION GROUP INC

Housing for the Aged Action Group

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Draft Goods and Services Tax Ruling GSTR 2013/D2

Goods and Services tax:

Supplies made by an operator of a 'moveable home estate'

This submission is a response by Housing for the Aged Action Group (HAAG) to the Draft Goods and Services Tax Ruling (GSTR 2013/D2) - Goods and Services tax: supplies made by an operator of a 'moveable home estate'.

In summary we submit:

- the draft ruling is inconsistent with the nature of the Victorian industry, the industry association and the Victorian legislation, and
- moveable home estates are catered towards pensioners and retirees as an affordable form of housing and an increase in operator costs could mean unaffordable and unsustainable housing into the future.

About Housing for the Aged Action Group (HAAG)

HAAG is an older persons housing information and support service focusing on pensioners with limited income and little, to no, assets. HAAG's services are partially funded by Consumer Affairs Victoria (CAV) to provide tenancy and retirement housing information and support services to vulnerable and disadvantaged older people.

The service funded by CAV assists residents and site tenants living in caravan and residential parks and villages throughout Victoria. The term 'residential villages' is the equivalent of 'moveable home estates', as per the ruling. This area comprises a large portion of the work undertaken by the retirement housing service.

HAAG also facilitates and supports a working group made up of approximately 145 members representing residents and site tenants across Victoria living in caravan and residential parks and villages. The working group was consulted in relation to the GSTR 2013/D2 and their feedback is reflected and quoted throughout this submission.

Victorian Legislation

The *Residential Tenancies Act 1997 Part 4A* currently governs 'moveable home estates' in Victoria, although they are lawfully called Part 4A parks. Part 4A came into effect in September 2011 after many years of lobbying by HAAG and its Caravan and Residential Parks and Villages (CARPAV) working group.

Someone who owns a moveable dwelling and leases/rents the site on which it stands is called a site tenant. The owner of the site is called a site owner.

As it currently stands in Victoria Part 4A parks do not have separate legislation, as in other states, and they form part of the caravan parks industry in Victoria, registered as such by local councils.

Whether a moveable home estate is commercial residential premises

Let us begin by highlighting that since the introduction of the GST legislation moveable home estates have been considered 'commercial residential premises' because they evolved out of the caravan parks industry.

The explanation provided in Appendix 1 of the ruling states that caravan parks "are operated on a commercial basis or in a business-like manner". Moveable home estates can also be defined as such. Site owners are company owners running a commercial business that happens to provide residential accommodation.

The draft ruling suggests, though, that the definition of 'commercial residential premises' no longer applies to moveable home estates as they no longer portray similar characteristics to caravan parks and camping grounds, such as being held out to the public or providing accommodation to short-term occupants.

HAAG's contention would be that moveable home estates are held out to the public, by homes for purchase and sites for lease being made available to any interested parties.

The GST Act states, in section 195-1, that 'commercial residential premises' can be "*anything similar to residential premises described in paragraphs (a) to (e)*" (which includes caravan parks).

In Victoria moveable home estates (Part 4A parks) in policy and law are currently dealt with in the same way as caravan parks. Victoria is the only state without separate legislation for moveable home estates. All parks in Victoria are covered by

the *Residential Tenancies Act 1997* (RTA) as a form of 'residential' tenancy arrangement.

Local Government currently only recognises caravan parks in its registration processes, which includes moveable home estates, and the industry body covers all variations of parks whether short term or long term accommodation is provided, or both.

The draft ruling states that the sector has evolved to such a degree that moveable home estates are now more similar to retirement villages. Characteristically this might be the case but Victorian policy and legislation reflects a very different view.

To change definitions in national legislation, before Victoria has evolved its law to match the landscape of the sector, is to further complicate an already complex matter. If state law has yet to recognise the changes to the sector then it would be premature for national legislation to push ahead at this time. To this end HAAG submits there be no alterations to the GST until such time as all states have appropriate legislation that can accommodate such taxation changes.

If we then delve deeper we see residential premises defined as: "*land or a building that:*

*(a) is occupied as a residence or for residential accommodation; or
(b) is intended to be occupied, and is capable of being occupied, as a residence or for residential accommodation; (regardless of the term of the occupation or intended occupation)".*

Given there is no requirement for a specific length of tenure to be provided in residential premises, it would appear that 'moveable home estates' would appropriately fit the definition above.

HAAG contends that this is in contradiction to paragraph 15 of the ruling which states: "*A moveable home site is vacant land. Vacant land is not 'premises' for the purposes of section 40-35 as a supply of premises requires the supply to include a building. Further, vacant land is not residential premises as defined in the GST Act".*

Clearly residential premises can be either land or building and does not require both to fit the definition. It can also include land that is intended for use, or is capable of being used, for residential purposes. Therefore it is HAAG's conclusion that moveable home sites fit appropriately into the definition of 'residential premises'.

By its very purpose a moveable home estate is created to supply residential premises, whether dwellings are sold on or off site.

The infrastructure that will enable a dwelling to be put on a site and connected for use as a permanent residential dwelling (such as; sewerage, power and water) is

organised at the point an operator decides to build a moveable home estate and receives permit to do so.

Most dwellings nowadays are sold on site, installed and ready for use. In the rare case a dwelling is bought off site a resident will have already chosen a site in a 'residential' village that has the necessary infrastructure required to quickly and easily install the dwelling.

This highlights that the GST Act as it currently stands compliments Victorian law and therefore should not change, until such time as state law is in a position to accommodate it. An alternative and much simpler option could be to include moveable home states more clearly in the definitions of 'commercial residential premises' in the GST Act to avoid confusion.

GST treatment of supplies made in a moveable home estate

To separate the transactions related to moveable home estates, as the draft ruling has done, is to complicate a matter that is otherwise clear in its intentions.

Whether a moveable home is sold separately to a site lease, or whether they are applied together, their purpose is to complement one another and to provide a form of residential accommodation. HAAG therefore submits there should be no separation in transaction, just for the purposes of GST. More often than not in the Victorian sector sites and homes are provided as a package.

Pensioners, retirees and sustainable housing

Mr Penaluna, President of the Federation Village Glenroy Residents Association Inc., writes on behalf of the Association:

"The majority of residents in this village are single women who are reliant on their pension. If they budget on a fortnightly basis it will be blown out of the water if they are required to pay 10% extra a month on the rent of the site... Many of the single ladies are struggling at present to make ends meet".

Most importantly for HAAG moveable home estates are marketed as lifestyle resorts for people over 55 years of age, the very group the organisation works directly with.

Most site tenants in Victoria are older and living on an age pension. Many have placed a majority of their money into purchasing their moveable home and therefore they rely heavily on their pension to support their daily living, including the payment of site fees and other related charges.

Moveable home estates provide a form of affordable housing that fills a significant need in the housing market for the older population. Many older people with some money in the bank, albeit too much for public or social housing and not enough for regular home ownership, find it difficult to source housing that suits their needs.

Moveable home estates have been established as an affordable option with an attractive lifestyle outcome for many of these specific retirees.

If owners and operators are expected to pay higher GST their ability to operate a financially viable and sustainable business may be affected. An increase in GST costs for park operators may then lead to an increase in site fees, and other charges, for site tenants in an attempt to recoup outgoing costs.

Mr and Mrs Becker live in a moveable home estate in Leopold, Victoria. They have expressed that if the ruling is made *“you can be SURE the owners will move quickly to pass this cost on to residents. Most residents here are on the aged pension, and most people will find this increase difficult to manage, not to mention single residents”*.

Many pensioners are already expressing that rises in utility and living costs are putting pressure on their finances. Add to this higher site fees and this could cause housing stress for thousands of pensioners across Victoria, and the country.

Mr and Mrs Crompton live in a moveable home estate in Cowes, Victoria. They write:

“The proposal (draft ruling) is unfair and immoral. It places a burden on that section of the community which is the most vulnerable (ie Pensioners). It will also severely affect the companies operating the mobile home parks. Since GST was introduced, the ruling by the then and subsequent Governments was that GST was not applicable. On that basis the industry had developed and grown and provides a reliable option for pensioners. The ramifications of this current draft proposal would be devastating for all parties involved and could easily lead to a breakdown of the operation of many parks and leave home owners with little or no equity. The Federal Government needs to carefully consider this proposal and take the responsibility for that which it has in the past encouraged. This Government was elected on a number of issues. Three of those issues were that it would govern for all Australians, that it would assist growth and prosperity of business, and that there would be no changes to GST. It would seem that the issues we refer to are in direct opposition to the Draft Proposal”.

In conclusion HAAG submits that until such time as Victorian legislation recognises the changes in the caravan parks sector, with the involvement of ‘moveable home estates’ there should be no hasty changes made to the GST Act.

Without proper consideration such changes could impact negatively on both the site owners and site tenants, the majority being pensioners who rely on the affordability of this form of housing.

HAAG has determined that ‘moveable home estates’ do in fact fit the definitions outlined in the GST Act and that perhaps a much simpler outcome would be to more clearly define them in the Act as it currently stands.

Addendum:

The response has been significant by residents from across Victoria, with many groups making submissions and petitions of their own to the Australian Taxation Office and to their local Federal Members of Parliament.

These include Summerhill Residential Park where residents sent in individually signed letters to their federal MP, who then passed it on to the ATO and residents of Oasis Village in Cobram who sent in 215 individual letters to their local MP. Residents of Willow Lodge in Bangholme also gathered over 300 individually signed letters.

Some groups chose to attach their petitions to this submission and so for your interest I provide you with the signatures of residents from:

1. Lakes Entrance Relocatable Home Villages (109 signatures)
2. Green Acres Village (109 signatures)
3. Mornington Gardens Holiday Village (129 signatures)
4. Penguin Resort (219 signatures)

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