



GST Treatment of Australian taxes fees and charges

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Introduction

The Local Government Association of Tasmania (LGAT) is the representative body of Local Government in Tasmania. Established in 1911, the LGAT is incorporated under the *Local Government Act 1993* with membership comprising 28 of the 29 Tasmanian councils.

The objectives of the Association are:-

- To promote the efficient administration and operation of Local Government in the State of Tasmania;
- To watch over and protect the interests, rights and privileges of municipal Councils in the State of Tasmania;
- To foster and promote relationships between Local Government in the State of Tasmania with both the Government of Tasmania and the Government of the Commonwealth of Australia;
- To represent the interests of the members of the Association generally, and in such particular matters as may be referred to the Association by its members; and
- To provide such support services to the members of the Association as the Association may by resolution in meeting determine.

This submission has been developed following consultation with councils. Councils may also choose to make direct submissions. Any omission of comments they have made should not be viewed as lack of support by the Association for that specific issue.

General Comments

Tasmanian councils welcome the clarification of the principles that

- *"taxes that are in the nature of a compulsory impost for general purposes and compulsory charges by way of fines or penalties will be exempt from GST;*
- *regulatory charges that do not relate to particular goods or services will be exempt from GST, including:*
 - *fees and charges levied on specific industries and used to finance particular regulatory or other activities in the government sector;*
and
 - *licences, permits and certifications that are required by government prior to undertaking a general activity".*

We particularly welcome the specification of fees and charges for kerbside collection of domestic waste (both compulsory or optional) as exempt from GST however feel that some uncertainty remains because of the proposed wording.

"The kerbside collection of domestic waste" could be interpreted to mean the kerbside collection of domestic waste from all properties i.e. residential and non-residential (as many councils would define the type of waste that is permitted to be collected by Council via kerbside collection). However, it could also be

interpreted to mean the kerbside collection of waste from domestic properties i.e. residential properties. This would leave it open to interpretation that the component of Council's waste management service charge that raised revenue for the kerbside collection of waste from non residential properties would be subject to GST.

LGAT strongly suggests that the wording be changed to remove the reference to "domestic waste" to something more like:

- The kerbside collection of waste; or
- The standard waste kerbside collection service.

This would meaning a fee or charge (ie: a rate or a service charge) for the normal kerbside collection service, irrespective of the type of property from which it is collected, would be GST free.

In the event that it is the Federal Government's intention to charge GST on the component of the waste management service charges that raises revenue for the kerbside collection of waste from commercial properties (ie: "domestic waste" is interpreted to mean residential properties only), this would create an unworkable level of complexity for councils, in Tasmania and nationally, and would be very difficult to administer. Every council in the nation would face the same issues.

By way of example, in the capital city Hobart, Council's waste management service charge is levied on all rateable properties within the municipality and, in addition to the standard kerbside waste and recycling collections, provides revenue that covers a number of activities with a more general benefit such as solid waste minimisation initiatives and contributions to a range of recycling initiatives. It would be very difficult for Council to separately levy one component of the charge to one group of ratepayers.

LGAT therefore, urges greater clarity in relation to this matter and seeks to ensure that the GST treatment for the standard kerbside collection of waste from all properties is uniform.

Further, Regulation 81-10.01 (g) may cause confusion for councils in instances where a supply of a non regulatory nature is part of an overall regulatory nature supply. Ideally the Regulations could clarify that this Regulation does not apply in instances when a non-regulatory fee represents a component of a broader fee/charge. Instead for the purposes of 81-01.01(g), the broader fee/charge could be considered in its entirety.

81-15.01(1)(c) and 81-15.01(1)(f)

LGAT Members welcome the changes to 81-15.01(1)(c) and 81-15.01(1)(f) which support the intent behind Local Government contemporary practices such as developer contributions and waste levies. However there is potential for ambiguity in the fact that while 81(15) provides for exemptions, 81(10) prevails. This may lead to different interpretations and would benefit from greater clarity and less co-dependency in interpreting the Regulations . One example is waste collection services which can be provided by a private contractor as well as by Local Government.

Timing of the Updates to the Division 81 Regulations

The grandfathering extension of the 2011 Determination (no 1) is appreciated. There are concerns whether a sufficient notification period will be provided in the release of future regulation amendments. Councils are not in the same position as private enterprise to respond to changes in the taxes/fee & charges structure and would appreciate the Division 81 updates to be effective from 1 July of the impending financial year, with a minimum of 6 months prior notification to meet budgetary constraints.

In conclusion, Tasmanian councils are supportive of the amendments but feel they could be strengthened to improve clarity and support the goals of preserving GST exemptions on Local Government activity which has always traditionally been GST exempt.