P.O. Box 3820
Robina Town Centre
Q 4230

The Secretariat
A.F.T.S.
The Treasury
Langton Cres
Parkes ACT 2600.

5-9-08.

Dear Sir,

I am writing to suggest a more simple method of applying G.S.T. to levies imposed by non profit Residential Body Corporates. What I propose does not reduce the amount or rate of G.S.T. All it does is simplify compliance costs by eliminating excessive administrative costs and record keeping within the A.T.O. and Body Corporate administrations.

State legislation require Residential Body Corporates to have :-

- an Administrative Fund to cover costs of maintaining property and assets for the next 12 months, the cost of insurance and expenditures of a recurrent nature; and :-
- a Sinking Fund to cover capital expenditure for the next 12 months and also to reserve sufficient funds to meet anticipated capital expenses over the next 9 years. The major such expense relates to external repainting of buildings every 8 or so years.

To meet these anticipated expenses Body Corporates render levies generally 3 times a year. Those with annual turnovers of $75,000 or more are required to add 10% G.S.T. to the levies rendered. This amount is then remitted to the R.T.O. Such Body Corporates must register for G.S.T. purposes. so that they can claim tax input credits for any G.S.T. included in later acquisitions or expenditures. This is to ensure they do not pay GST twice on their expenditures.

Residential Body Corporates are non profit organisation. managed by elected honorary office holders. They cannot be described as commercial business trading organisations. It is difficult to see how on the payment of a levy there is a taxable supply when all that has occurred is that monies collected are placed in a bank account for later expenditures. If a taxable supply has occurred why doesn't it apply to those with an annual turnover of less than $75,000?

Worse still is that levies are no more than an estimate of future costs. — sometimes estimate of costs some 9 years hence. Rarely can they be accurate. Thus levy accounts (and GST) have either too little or too much cash when expenditures (including GST) actually takes place.

Levies are based on lot entitlements. This has led to anomalous situations such as higher floors on high rise buildings required to pay a higher levy but get much the same

service from the Body Corporate. Hence they pay a higher G.S.T. which is supposed to be a tax on "private final consumption".

Just imagine all the record keeping and paperwork involved in the present system. There are holding accounts which may cover periods of up to 9 years. Think of all the work needed to claim input credits. All this places an unnecessary cost burden on non profit Body Corporates and also the A.T.O. Surely it would be much simpler to apply the same system as that which applies to those with an annual turnover of $75,000 or less. G.S.T. would be paid as and when supply occurs.

I have written to the previous Government, the present Government and the A.T.O. about this matter. The replies have been worded much the same and I attach the latest reply from the Treasurer dated 16 June 2008.

I am not impressed by the views expressed in the replies eg.

- all responses do no more than try to justify the present system. There appears to be no real attempt to improve the system and reduce administrative costs.
- the reply virtually admits there are "excessive compliance costs" See first paragraph Page 2 of reply of 16 June 2008 attached.
- GST is stated to be a tax on final consumption. Levies are no more than an estimate of future

costs. What consumption takes place at that stage?

- It is argued my suggestion would create a precedent. But a precedent already exists for those Body Corporates with an annual turnover of less than $125,000. This incidentally must cause problems when such a body marginally moves over the $175,000 limit. But in any event how many organisations are required to pay GST on anticipated future expenditures?
- It is argued my suggestion would involve an exemption from G.S.T. (see last paragraph Page 2 of letter of 16 June 08 attached). This is not so. GST always would be payable as and when supply occurs. There would be no loss of G.S.T. revenue so how would it "undermine the revenue base of the States and Territories" All I am proposing is a simpler administrative process.

The present Government has indicated its intention to reduce administration costs. What I am suggesting would seem to fit this intention

Yours faithfully

J. Rainbow

(J.G. RAINBOW).

OFFICE OF THE TREASURER

PO BOX 6022
PARLIAMENT HOUSE
CANBERRA ACT 2600

Telephone: 02 6277 7340
Facsimile: 02 6273 3420

www.treasurer.gov.au

16 JUN 2008

J G Rainbow
PO Box 3820
ROBINA TOWN CENTRE QLD 4230

Dear Mr/s Rainbow

Thank you for your letter of 7 February 2008, originally directed to the Prime Minister, concerning the goods and services tax (GST) being payable on body corporate levies. Your letter has been referred to the Treasurer as he has portfolio responsibility for this matter. The Treasurer has asked me to respond to you. I apologise for the delay in responding.

The Government believes that it is important to listen to the views of the community and welcomes your views. The Government also accepts that the issues raised and the views expressed are important to the people who raise them and therefore treats those views with respect and endeavours to respond in a timely fashion. However, the Prime Minister and the Treasurer receive a large volume of correspondence from individuals and cannot respond personally to all correspondents.

As you would know, any supply made by a GST registered entity in the course of furtherance of an enterprise that is made for consideration and is connected with Australia, is a taxable supply on which the GST is payable. An entity, including a body corporate, is required to be registered for GST purposes, if its annual turnover is or exceeds $75,000. The threshold is $150,000 for entities that are non-profit bodies. A body corporate that is registered for GST is required to remit GST to the Australian Taxation Office (ATO) when it levies contributions to its sinking and administrative funds as these amounts are regarded as consideration for the services supplied by the body corporate. However, in general a registered body corporate can claim input tax credits for the GST included in acquisitions that it makes thereby ensuring that the body corporate does not pay any GST on its inputs.

In your letter you suggested that the GST should not apply to levies paid to body corporates. You argue that body corporates are merely a conduit to group funds from several persons to later pay for goods and services, that they are non-profit organisations rather than businesses, and that they do not supply any goods and services at the time levies are paid. You also raise concerns that applying GST on such levies imposes significant compliance costs for body corporates.

The GST is most efficient when applied as broadly as possible, with exemptions kept to a minimum. To this end, any entity that is carrying on an enterprise may be required to register for GST. This includes business trading enterprises, religious and non-profit organisations and government agencies and departments. The registration threshold of $75,000 (or $150,000 for non-profit organisations) is designed to avoid excessive compliance costs for very small enterprises. However, many small enterprises choose voluntarily to register for GST in order to claim input tax credits for GST paid on their purchases.

The GST is not a tax on profit making, rather it is a tax on private final consumption in Australia. In the case of a body corporate, its obligations to its members are governed by State and Territory laws. Generally, a body corporate charges levies on its members in exchange for its obligations to manage and maintain common property now and into the future. In this respect it is not a simple transfer of money, but rather a payment for service. The Government is satisfied that this service, like other services, should be subject to GST.

While a body corporate may be controlled by elected committee members, they are acting on behalf of the body corporate itself, which under State and Territory laws is a separate legal entity. This means that the body corporate has rights and obligations that exist, at law, independently from its members. This is similar to an incorporated company, which exists independently from its shareholders. The relationship between a body corporate and its members is further governed by legislation, as well as the by-laws of the body corporate.

The record keeping requirements under the GST are intended to strike a balance between minimising the burden for taxpayers and ensuring that the integrity of the GST system is upheld. In most cases it is only necessary to keep GST records for five years, rather than for 10 years as you suggested. You may seek guidance on record requirements by calling the ATO on 13 28 66.

Finally, I note that the GST applies broadly to goods and services. GST revenue is paid to the States and Territories and provides them with a secure source of revenue to provide essential community services such as health and education. There are a limited number of exemptions to the GST in areas such as food, education and medical services. Additional exemptions to the GST would, over time, add to the complexity of the tax system, create new anomalies and lead to calls for further exemptions. They would also undermine the revenue base of the States and Territories. I note that under the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations* any change to the GST base requires the unanimous agreement of the States and Territories.

I trust this information will be of assistance to you.

Yours faithfully

Leonie Holloway
Departmental Liaison Officer (Taxation)

Australia's future tax system

Call for submissions

The review of Australia's tax system is underway. The review panel wants to hear your ideas and views and is calling for written submissions.

The review is looking at our current system and will make recommendations to position Australia to deal with the demographic, social, economic and environmental challenges of the 21st century.

This is your opportunity to make a contribution to the tax review.

The closing date for written submissions is Friday 17 October 2008.

After considering the submissions, the review panel will release a consultation paper by the end of 2008 and undertake further consultations, including calling for additional submissions.

For more information on how you can make a submission and the ongoing consultation process please visit www.taxreview.treasury.gov.au or call 1800 614 133.

An Australian Government Initiative

hmaC088139

ATTS

Secretary
The Treasury
Langton Cres
Parkes ACT 2600