

Productivity Commission
SUBMISSION COVER SHEET
(not for publication)
Disability Care and Support

Please complete and return this cover sheet with your submission to:

Disability Care and Support inquiry

Productivity Commission, GPO Box 1428, Canberra City ACT 2601

OR

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Inquiry into Disability Care and Support
Productivity Commission
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Tuesday, 27 July 2010

Submission to the Productivity Commission's

Inquiry into Disability Care and Support

Recommendation:

That the Productivity Commission proposes people with disabilities be more broadly exempted from the burden of GST. In so doing, the Government could significantly contribute to its own policy objective of promoting equal opportunity and access for people with disabilities as others.

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Contents:

Submission.

- GST Exemptions SMacL WORD Document

Attachments:

- GST Exemption Medical Aids Guide PDF
- ATO Car GST Exemption Form PDF
- gsnat3417 doctor PDF
- BrightSky list of non GST exempt products.
- LIFT Statutory Declaration For GST Exemption PDF
- UK VAT Exemption Form PDF

Submission to the Productivity Commission's Inquiry into Disability Care and Support

Introduction

The Federal Government enacted the Disability Discrimination Act in 1992 to "promote levels of opportunity and access for people with disabilities equal to those of people without disabilities". Further, the Act made disability discrimination unlawful.

Despite the Government's commendable objective, due to the outmoded and inequitable application of the Goods and Services Tax (GST), administered by the Commissioner of Taxation, people with disabilities still face considerable extra cost barriers in fully participating in society.

Federal and State Governments provide assistance and support via a range of disability assistance schemes and pensions. But the GST adds additional expenses for which there is no matching compensation.

While some vital medical aids are GST exempt, through a set of rules which can be arbitrary, irrational and extremely difficult for people other than lawyers or taxation accountants to grasp, many expensive medical aids and services are not GST exempt.

Additionally, services and items such as modifications to make private accommodation, bathrooms, kitchens and work-places accessible are taxed for GST.

The principle reason people with disabilities incur many of these extra expenses is to reduce or remove barriers. But the 10% GST can in itself be a barrier for many who struggle financially with the costs of their disability.

This submission pinpoints anomalies and inconsistencies in the granting of exemption from GST in the following areas:

- A. Medical Aids
- B. Spare Parts for Medical Aids
- C. Repairs to Medical Aids
- D. Purchase or Lease of Cars
- E. Modifications to Accommodation
- F. Applying for GST Exemption

Recommendation

That the Productivity Commission proposes people with disabilities be more broadly exempted from the burden of GST. In so doing, the Government could significantly contribute to its own policy objective of promoting equal opportunity and access for people with disabilities as others.

Supporting Organisations

The following bodies representing the interests of people with disabilities have indicated their support this recommendation:

- MS Australia
- Spinal Cord Injury Australia
- ParaQuad NSW
- Physical Disability Australia

A. Medical Aids

According to the Commissioner of Taxation's web site a medical aid and appliances is GST-free if they meet all of the following three conditions:

- *listed in schedule 3 to the GST Act or in schedule 3 to the GST regulations (attached).*
- *specifically designed for people with an illness or disability*
- *not widely used by people without an illness or a disability.*

Medical aids and appliances that satisfy all these conditions are GST-free at every point in the supply chain - from manufacture to consumer.

However, excluding any item or service a person with a disability requires because it was NOT specifically designed for people with an illness or disability AND widely used by people without an illness or a disability, means people with disabilities are unreasonably obliged to pay GST on some of the most important and expensive items and services they depend on.

BrightSky Australia (formerly ParaQuad NSW healthcare products) a leading supplier of healthcare products particularly to people with spinal cord injury, adds GST to 1,700 of the 3,500 products it sells.

Examples follow.



While urinary catheters are exempt from GST, the glycerol (\$56:00 for a 2 litre container) used to lubricate catheters and keep them free of harmful bacteria which can cause urinary tract infections (UTIs) is not GST exempt as its not specifically designed for people with an illness or disability AND widely used by people without an illness or a disability.



Antibacterial wipes. People with disabilities must often use antibacterial wipes (\$3:50 a pack of 40 wipes) as hygiene aids. As people others also use them around their homes they are taxed.

Other medical aids which incur GST include many inconstancy aids, cushion and pressure relief products, wound dressings, mattress protectors, sheepskin products, surgical gloves and even those gloves wheelchair users wear to protect their hands.

A full list of these 1,762 non-exempt items is attached.

As it is difficult for many people with disabilities to regularly visit shops which sell these specialist products, BrightSky and similar suppliers operate online stores and call centres. Orders are couriered out to customers. Whether goods are GST exempt or not, GST has to be added to the courier charges. A further iniquitous expense.



Air Conditioners. (\$1000 - \$3,000) As reported on the MS Australia website; *"Heat intolerance is a major issue for people with MS. One consequence is that nationally on average people with MS run their air conditioners approximately 15 times more than average households. This translates to spending approximately 10 times more running their air conditioners than average households"*. To

alleviate the expenses associated with the higher electricity use, a number of State Governments have recently implemented electricity rebate schemes to help people with MS and other qualifying medical conditions. Incongruously, despite the enormous stress and hardship air conditioners lessen, GST is charged on purchasing and installing them, adding hundreds of dollars to their cost.



Automatic Door Openers. (\$2,300) are extremely convenient devices on front doors of houses and apartments of people who use wheelchairs or scooters, who otherwise find it difficult to push their chairs or steer a scooter while pulling the door. The openers can also be fitted with an electronic snib, which considerably improves the occupant's security as the door conveniently locks as soon as they enter or leave. But regrettably automatic door openers incur GST as they are NOT specifically designed for people with an illness or disability AND are widely used by people without an illness or a disability.

B. Spare Parts for Medical Aids

A further inequity occurs where people with disabilities require replacement parts for a mobility aid or medical appliance despite the original medical aid having been purchased GST exempt.

The Commissioner of Taxation's published **GUIDE FOR MEDICAL AID AND APPLIANCE SUPPLIERS** advises: *Spare parts you sell that are specifically designed for a GST-free medical aid or appliance are GST-free. However, generic parts are taxable. For example, a replacement wheelchair wheel you sell that is designed with a hand grip is not a generic part and is GST-free. However, generic batteries you sell for an electric wheelchair are taxable because they are not specifically designed for the wheelchair.*

So, despite a power wheelchair's tyres (\$48:00 each) or batteries (\$800:00 for a pair) being GST free when initially purchased as components of the wheelchair, they are not exempt from GST when it's time to replace them. The tyres and batteries are generic and not especially specifically designed for use people with disabilities. Again, this is illogical and inequitable; People with disabilities are hardly going to put the tyres on their wheel-barrow, or the batteries in a golf buggy.

However there is no process available in Australia for them to formally warrant to the Commissioner of Taxation that the parts will be used on a mobility aid. This is also inequitable and unfair.

C. Repairs to Medical Aids

In regard to REPAIRS TO GST-FREE MEDICAL AIDS AND APPLIANCES (attached), in language that not even disability repair providers seem to be able to grasp, the Commissioner of Taxation advises suppliers: *The following parts or labour you supply to repair GST-free medical aids or appliances are taxable:*

- *Parts that are not specifically designed as spare parts for the GST-free medical aid or appliance and which are not merely incidental to the supply of GST-free specifically designed spare parts*
- *consumables, such as oil or glue, used in the repair or service that is not merely incidental to the supply of GST-free specifically designed spare parts*
- *specifically designed spare parts for the GST-free medical aid or appliance that are merely incidental to the supply of the labour component of the repair service (that is, where the main supply is labour)*
- *The labour component of the repair service where it is not merely incidental to the supply of a specifically designed spare part for the GST-free medical aid or appliance.*

This probably means repairing a flat tyre on a manual wheelchair is GST exempt, but the same job on a power chair will incur GST. However, because of the bewildering complexity in the wording and the lack of underlying logic, many repairers add GST to all the repair work they do, whether or not it's merely incidental to the supply of a specifically designed spare part for the GST-free medical aid or appliance, whatever that might mean.

It's recommended no differential should be applied to repairing a component of an aid on the basis of it being specifically designed or widely available; incidental or otherwise.

D. Purchase or Lease of a Car



Modifying a car to enable a person with a disability to gain entry to and perhaps to drive their own car is a high-level expense. New cars suitable for conversion to enable wheelchair access often cost around \$55,000, \$5,000 of that figure being the GST. As per the Commissioner of Taxation, modifying the vehicle is generally GST exempt including: special purpose car seats, car seat harness, as long as it is specifically designed for people with disabilities, wheelchair and occupant restraints, wheelchair ramps, electric/hydraulic wheelchair lifting devices and motor vehicle modifications. These components and the modifications can still cost as much as \$20,000 ex GST; an expense non-disabled people do not have to pay when they purchase a car.

Under certain circumstances the Commissioner also makes an exemption on GST for the purchase or lease vehicles used by people with a disability and for some car parts; however these conditions are unduly inflexible and onerous.

Specifically the Commissioner of Taxation stipulates the applicant must be the holder of a current disability certificate certifying that they have lost the use of one or more limbs to such an extent that they are unable to use public transport.

Limiting the GST exemption to only those with disabilities on the basis of having lost the use of one or more limbs demonstrates a lack of empathy or understanding of the barriers created by being disabled.

For example, many with a disease such as Multiple Sclerosis or Muscular Dystrophy can walk, but only for short distances. It could not be truthfully said they have lost the use of one or more limbs, so they would not legally be eligible to claim exemption.

Details of the applicant's level of disability must be filled in on the form **Application for medical assessment to obtain a car or car parts GST-free** (attached). After reporting on the person's ability to walk 400 metres including: If Yes, how often? Once daily, Twice daily or More often?, the assessing medical officer is required to provide answers to the following humiliating questions which bare little if any relevance to the need to have a car:

(b) Can the patient hold or grasp a hand rail?

(c) Can the patient negotiate stairs with a handrail?

(d) Can the patient negotiate stairs without a handrail?

(e) Can the patient negotiate 5-10 stairs?

(f) Can the patient maintain a standing posture?

(g) Can the patient maintain a standing posture in a moving vehicle?

(h) Can the patient use public transport (train or bus)?

If you answered No to (h), please explain how the above disabilities prevent the use of public transport (bus or train)

The implied assumption in (h) is that if a person can use public transport they would not need a car, hence not warrant GST exemption. Using the capacity or otherwise to use public transport as a measure of disability for GST exemption demonstrates a very confused understanding of the challenges it creates. Many people with disabilities do not use of public transport is because of its poor accessibility rather than the extent of their disabilities.

Many train stations can't be accessed by people with disabilities as there are no lifts or ramps to the platforms. Many buses aren't wheelchair accessible either. State Governments such NSW adopted a Wheelchair Accessible Taxi Subsidy Scheme (WAT) as a cheaper alternative to making all the trains and buses accessible.

The general lack of accessibly public transport is compelling evidence of the need for people with disabilities to be able to use personally owned cars when possible, and where their financial circumstances permit.

Inequitably, GST Exemption on cars and parts is limited to only people who are exclusively using their personal transportation to or from gainful employment.

The Commissioner terms gainful employment as being paid employment, including sheltered employment, AND; self-employment of a commercial character that is intended to result in financial gain.

This rule inequitably excludes people with disabilities wishing to use a car to do charitable or voluntary work as there will be no financial gain, or from using a GST exempt car for recreation or family purposes.

As outlined above, modifying a car could increase its price by almost 50%. Waiving the 10% GST on the unmodified vehicle purchase price for all people whose mobility has been significantly impaired regardless of whether or not they had lost the use of one or more limbs or were or were not able to use public transport or for gainful employment or not would be a very positive move towards providing equal levels of opportunity and access for people with disabilities.

E. Modifications to Accommodation

Under these stringent arrangements some components and the work done to modify a vehicle is GST exempt, the majority of the goods and the services required to enable a person with a disability to enter and live in their homes as their disabilities progress are not.

Yet modifications and adaptations to accommodation is one of the largest and most common expenses people with disabilities and their families confront.

The Commissioner of Taxation's **Schedule 3** limits GST exempt medical aids in accommodation to items such as bidet/bidet toilet attachments and special door fittings relating to the disability of a particular person.

Examples of goods and services to make accommodation accessible which are not GST exempt includes:



Acquiring and installing cement or steel permanent ramps to replace external steps.



Modifications to widen front and internal doors and the wider doors themselves.



Alterations to kitchens to raise or lower benches, open up cupboards, washing-up sinks and make tables accessible.



Alterations to bathrooms, including installing non-slip flooring as well as



removing hobs to enable showering in wheel-in commodes, sheeting and tiling for grab rails adding and fitting easy-operation tap-ware and all the other components and services frequently essential to continue to live at home rather than in an institution are not GST exempt.

The 10% GST component of the cost of these items and works adds an inequitable penalty to often essential expenses which the rest the community does not have to pay.

Urgent consideration should be given to extending GST relief to cover ALL equipment, ALL replacement parts there-of, and to all work done to repair an aid needed by someone within the Disability Discrimination Act (DDA) definition to specifically overcome their disability, whether or not the goods or service were specifically designed for people with an illness or disability or widely used by people without an illness or a disability.

F. Applying for Exemption from GST

A simple process for making a claim for GST exemption should also be put in place.

In Australia there are presently two quite different processes exist for claiming exemption:

1. Declaration for an exemption of GST on a car or car parts.

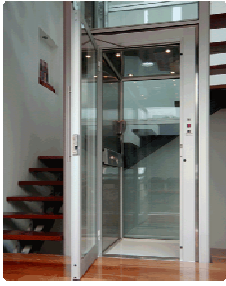
As already mentioned, the Commissioner of Taxation states in the relevant GST Exemption form (attached), to claim GST exemption, *a disability certificate issued by the managing director of a nominated company under the Hearing Services and Australian Government Health Service Reform Act 1997, or an officer or employee authorised in writing by the managing director of the above company, for the purposes of section 38-510 of the A New Tax System (Goods and Services Tax) Act 1999* must be supplied.

It was not clear on the form what the required disability certificate is or who a managing director of a nominated company of the company which was required to issue said form might be. Nor was it to the ATO helpline, which in the preparation of this submission I was forced to phone to gain clarification.

In a frustrating and exasperating 20 minute conversation, the ATO GST advisor suggested I download several non-relevant forms before finally admitting they did not really know what was required. It was then suggested I call an organisation called HFA on phone number 1300361046. HFA I learnt was previously Health for Industry and is an entity controlled by Medi Bank Health.

On receipt of a payment of \$85.00 (by money order or credit card Personal cheques, BPay or electronic transfers not accepted), it would issue the disability certificate dependent on undertaking a medical examination and tendering an Application for medical assessment (attached) which has already been discussed.

2. Domestic Lifts.



Not being able to climb stairs is a challenge common to many people with impaired mobility. Small lifts (around \$50,000, plus \$20,000 for fitting) suitable for wheelchair-users can make a very positive impact on a person's life and are often the difference between staying in the family home or having to move elsewhere. Some lift suppliers have negotiated special arrangements with the Commissioner of Taxation for GST exemption via a Statutory Declaration. Their clients must affirm they are Persons with Limited Mobility and can then make Restricted Use of their lift.

Clearly submitting a Statutory Declaration for GST exemption for a lift is likely to be more straight-forward and less expensive than the process of undertaking a medical assessment and applying for a disability certificate from the managing director of HFI.

The costs for both a modified car and an installed lift are likely to be quite similar; around \$70,000. So why the inequitable difference in application processes?

In the United Kingdom with VAT, the procedure is considerably more straight-forward. Whatever the item for which VAT exemption is sought, the person just fills in a downloadable form (attached) and gives it to the supplier. They state name, date of birth, address and the nature of their chronic illness or disabling condition for which they are receiving the medical aid or service for their domestic or my personal use.

It's strongly recommended Australia develop a similarly less onerous GST exemption application process.

And finally, why can't such a form be used to warrant that all aids and services whether specifically designed for use by a person with a disability or not is GST exempt?

Why if an item or service will make a significant improvement to a person's wellbeing and equitable enjoyment of life, should they have to pay a tax just because the item or service is coincidentally also widely used by the rest of the Australian community?

Stewart MacLennan

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Stewart MacLennan Background

Worked as a journalist and filmmaker with the **ABC** and **National Geographic** before co-founding digital animation and visual effect company **Garner MacLennan Design (GMD)**.

Sold GMD in 2000 and as a person new to having a disability (due to MS) started to become actively involved in advocacy for and about disability issues, particularly in the built environment, employment and the arts.

Recently returned from 12 months observing firsthand the good and the bad of access for people with disabilities in the UK, Belgium and France.

Present Positions.

- ❑ **Fuel VFX Pty Limited** film and TV animation company, Co-Chairman.
- ❑ **Association of Consultants in Access Australia** Associate member
- ❑ **MS Research Australia** multi-media production.
- ❑ **Accessible Arts** Consumer Reference Group member.

Past Positions.

- ❑ **Physical Disability Australia.** NSW board member
- ❑ **NSW Physical Disability Council.** Executive Committee member
- ❑ **City of Sydney Inclusion Plan Consultative Committee.** Member
- ❑ **Employers Network on Disabilities consultative committee.** Member
- ❑ **Legacy NSW People with Disabilities Advisory Committee.**
- ❑ **Observatory Tower.** Chairman Owners Corporation Executive Committee