

GSTR 2012/3DC - Goods and services tax: GST treatment of care services and accommodation in retirement villages and privately funded nursing homes and hostels

 This cover sheet is provided for information only. It does not form part of *GSTR 2012/3DC - Goods and services tax: GST treatment of care services and accommodation in retirement villages and privately funded nursing homes and hostels*

 This is a draft version of the updated ruling issued for public comment. A version which has the major changes from the original version tracked is available in the [PDF version](#) of this document.

For information about the status of this draft Consolidation, see item 4258 on our [Advice under development program](#)



Draft Goods and Services Tax Ruling

Goods and services tax: GST treatment of care services and accommodation in retirement villages and privately funded nursing homes and hostels

This is a draft Consolidation outlining proposed changes to Goods and Services Tax Ruling GSTR 2012/3 *Goods and services tax: GST treatment of care services and accommodation in retirement villages and privately funded nursing homes and hostels* to give effect to amendments made to the *A New Tax System (Goods and Services Tax) Act 1999* by the *Aged Care and Other Legislation Amendment Act 2025*.

Refer to [Appendix 4](#) of this draft Ruling for an explanation of the update and our proposal in relation to finalising this draft Consolidation.

❗ Relying on this draft Ruling

This publication is a draft for public comment. It represents the Commissioner's preliminary view on how a relevant provision could apply.

If this draft Ruling applies to you and you rely on it reasonably and in good faith, you will not have to pay any interest or penalties in respect of the matters covered, if this draft Ruling turns out to be incorrect and you underpay your tax as a result. However, you may still have to pay the correct amount of tax.

Table of Contents	Paragraph
What this draft Consolidation is about	1
Legislative context	4A
Ruling	5
GST-free supplies of residential care under subsection 38-25(3)	5
When are services provided in a 'residential setting'?	6
<u>Example 1 – Residential setting</u>	9
<u>Example 2 – Not a 'residential setting'</u>	12
<i>Serviced apartments in a retirement village</i>	15
Retirement village	18
<u>Example 3 – Retirement village</u>	24
<u>Example 4 – Not a 'retirement village'</u>	29
Serviced apartment	33
<i>Paragraph (a) requirement</i>	35
<i>Paragraph (b) requirement</i>	37
<i>Paragraph (c) requirement</i>	40
<i>Paragraph (d) requirement</i>	41
<u>Example 4A – Assisted living unit with external corridor is a 'serviced apartment'</u>	41
<u>Example 5 – Assisted living unit with internal corridor is a 'serviced apartment'</u>	41A
<u>Example 5A – Assisted living unit not a 'serviced apartment'</u>	42
<u>Example 6 – Self-contained unit not a 'serviced apartment'</u>	46A
Provision of daily meals and heavy laundry to all residents of a serviced apartment	47

GSTR 2012/3DCPage status: **draft only – for comment**

Page 2 of 46

<i>Principle One – resident must have a continuing need for the provision of daily meals and heavy laundry services</i>	52
Daily meals	54
Heavy laundry services	54A
<u>Example 7 – Continuing need for daily living activities assistance services and nursing services for one resident but not the provision of daily meals and heavy laundry services to all residents of a serviced apartment</u>	55
<i>Principle Two – operator must have an obligation to provide daily meals and heavy laundry services</i>	56
<u>Example 7A – Operator’s obligation – arises on election by resident</u>	57
<u>Example 8 – Operator’s obligation satisfied – external provider as agent for operator</u>	60
<u>Example 8A – Separate agreement with operator</u>	61
<i>Principle Three – operator must make available daily meals and heavy laundry services</i>	62
<u>Example 9 – Make available daily meals – temporary absence</u>	63
<u>Example 9A – Make available daily meals – meal provided by family</u>	64
<u>Example 9B – Make available daily meals – religious and cultural events</u>	66
<u>Example 9C – Make available daily meals – personal taste</u>	67
<u>Example 9D – Make available daily meals – regular pattern of refusal</u>	68
<u>Example 10 – Make available daily meals – resident is unwell</u>	69
<u>Example 10A – Make available daily meals – medical needs</u>	70
When are services that are being provided in a ‘residential setting’ GST-free supplies of residential care?	72
<i>Services are provided to residents who require daily living activities assistance services or nursing services and who have a continuing need for those services</i>	73
<i>A package of services and accommodation under a written agreement</i>	76
<u>Example 11 – A package of accommodation and services under a written agreement</u>	81
<u>Example 12 – Paragraphs 6(3)(b) and 6(3)(c) of the Minister’s Determination are not satisfied</u>	85
Accommodation	90
<i>When is accommodation in a privately funded nursing home or aged care hostel GST-free?</i>	90
<i>Temporary absences</i>	94
<u>Example 13 – Accommodation not ‘in the course of’ a supply of GST-free residential care</u>	95
When is a supply of a serviced apartment in a retirement village GST-free?	99
<u>Example 14 – GST-free supply of a serviced apartment</u>	101
Date of effect	104
Transitional administrative arrangements	105
Appendix 1 – Explanation	107
Section 38-25 background	107
Approach adopted in this explanation	113
PART A – Services	114
<i>When are services provided in a ‘residential setting’?</i>	115

<i>Serviced apartments in a retirement village</i>	126
Retirement village	131
Serviced apartment	139
Physical characteristics of serviced apartments	141
Other characteristics of serviced apartments	152
<i>Subsections 38-25(3B) and 38-25(3C) – Minister’s Determination about the level of services required by residents of ‘serviced apartments’</i>	164
<i>When are services that are being provided in a ‘residential setting’ GST-free supplies of residential care?</i>	166
Services are provided to residents who require daily living activities assistance services or nursing services and who have a continuing need for those services	169
A package of services and accommodation under a written agreement	172
PART B – Accommodation	179
<i>When is accommodation in a privately funded nursing home or aged care hostel GST-free?</i>	179
Temporary absences	186
<i>When is a supply of a serviced apartment in a retirement village GST-free?</i>	187
Appendix 2 – Alternative views	191
Alternative view – meaning of residential setting in paragraph 38-25(3)(a)	191
Appendix 4 – Explanation of update	196
Appendix 5 – Your comments	201

What this draft Consolidation is about

1. This draft Consolidation^{A1} explains when care services and accommodation provided to residents in privately funded nursing homes, aged care hostels or serviced apartments in a retirement village are GST-free.
2. In particular, this Ruling explains when supplies of care services and supplies of accommodation to care recipients are GST-free under subsections 38-25(3), 38-25(4) and 38-25(4A) of the *A New Tax System (Goods and Services Tax) Act 1999* (GST Act).
3. All further legislative references in this Ruling are to the GST Act unless otherwise specified.
4. This Ruling does not address the GST treatment of:
 - care services and accommodation provided to residents of government funded residential care facilities covered by subsections 38-25(1) and 38-25(2);
 - services covered by an extra service fee (within the meaning of [the Aged Care Rules 2025](#)) under subsection 38-25(5); ~~Division 35 of the Aged Care Act 1997 (Aged Care Act) and addressed by subsection 38-25(5);~~

^{A1} For readability, all further references to ‘this Ruling’ refer to the draft Consolidation as it will read when finalised. Note that this draft Consolidation will not take effect until finalised.

- services covered by a higher everyday living fee (within the meaning of section 284 of the *Aged Care Act 2024*);^{A2}
- home care, services provided under specialist aged care programs or flexible care, or specialist disability services or other health services afforded GST-free treatment under Subdivision 38-B;
- the development, construction, sale or leasing of retirement villages, nursing homes, hostels or boarding homes;¹ and
- the activities of charitable institutions under Subdivision 38-G including supplies of retirement village accommodation under section 38-260.

Legislative context

4A. The GST-free treatment of residential care services under section 38-25 depends on the interaction between the GST Act and the aged care legislative framework. In broad terms, the GST Act sets the GST-free tests, while the aged care legislation, the aged care service list, the GST Regulations and the *A New Tax System (Goods and Services Tax) (GST-free Supply – Residential Care – Non-government Funded Supplier) Determination 2025* (Minister's Determination) identify the relevant services and circumstances that must be satisfied.

4B. Section 38-25 provides for certain supplies of residential care services and associated accommodation to be GST-free.

4C. Section 38-25, and the definitions of 'retirement village' and 'serviced apartment' in section 195-1, operate by reference to concepts drawn from the aged care legislative framework.

4D. The *Aged Care Act 2024* replaced the *Aged Care Act 1997* with effect from 1 November 2025.

4E. Consequential amendments to the GST Act were made by the *Aged Care and Other Legislation Amendment Act 2025*. These amendments are generally intended to preserve the existing GST treatment of aged care services.^{1A}

4F. Relevant to subsection 38-25(3), the amendments:

- replace references to Schedule 1 to the *Quality of Care Principles 2014* (Quality of Care Principles) with an approach under which relevant services are identified by reference to provisions of the aged care service list specified in regulations;
- define 'aged care service list' to mean the list of services prescribed by rules made under the *Aged Care Act 2024* for the purposes of section 8 of that Act (that is, the aged care service list is the list of services in Chapter 1, Part 3, Divisions 2, 4, 6 and 8 of the *Aged Care Rules 2025*); and

^{A2} Higher everyday living fees can only be charged by registered providers delivering funded aged care services under the *Aged Care Act 2024*. They are not relevant in the context of privately funded residential care providers.

¹ The GST treatment of a sale of a retirement village, in particular circumstances, is addressed in Goods and Services Tax Ruling GSTR 2011/1 *Goods and services tax: development, lease and disposal of a retirement village tenanted under a 'loan-lease' arrangement*.

^{1A} See page 125 of the Explanatory Memorandum to the *Aged Care and Other Legislation Amendment Bill 2025*.

- define ‘approved residential care home’ to have the meaning given by section 7 of the *Aged Care Act 2024*.^{1B}

4G. In this Ruling, references to the *Aged Care Act* are to the *Aged Care Act 2024* unless otherwise specified. References to the *Aged Care Rules* are to the *Aged Care Rules 2025*.

Ruling

GST-free supplies of residential care under subsection 38-25(3)

5. A supply of services to a resident living in a ‘serviced apartment’ in a retirement village, a privately funded nursing home, or hostel is a GST-free supply of residential care under subsection 38-25(3) if:

- the services are provided to one or more aged or disabled people in a residential setting;²
- the Aged Care Minister (Minister) has determined in writing that the services are of a kind covered by a provision of the aged care service list specified in regulations made for the purposes of paragraph 38-25(3)(b)~~Schedule 1 to the Quality of Care Principles made under section 96-1 of the *Aged Care Act 1997* (Quality of Care Principles)~~; and
- the services include, and are only provided to people who require, the services **(care services)** set out in a provision of the aged care service list specified in regulations made for the purposes of paragraph 38-25(3)(c)~~item 2.1 (daily living activities assistance) of Part 2 of Schedule 1 to the Quality of Care Principles (item 2.1 services); or item 3.8 (nursing services) of Part 3 of Schedule 1 to the Quality of Care Principles (item 3.8 services)~~.

5A. The ‘care services’ referred to in paragraph 38-25(3)(c) are those covered by the provisions specified in subsection 38-25.01(2) of the *A New Tax System (Goods and Services Tax) Regulations 2019* (GST Regulations).

5B. In this Ruling, the services covered by paragraphs 38-25.01(2)(a) to (d) of the GST Regulations are referred to as ‘**daily living activities assistance services**’. Services covered by paragraph 38-25.01(2)(e) of the GST Regulations are referred to as ‘**nursing services**’.

5C. The Minister has determined in writing that the services are covered by paragraph 38-25(3)(b) if:

- the service is supplied to a resident in a residential facility;
- the service is listed in Division 8 of the aged care service list; and
- the requirements in subsection 6(3) of the Minister’s Determination are satisfied.^{2A}

5D. The requirements in subsection 6(3) of the Minister’s Determination are that:

- the resident has a continuing need for daily living activities assistance services or nursing services; and

^{1B} Section 195-1.

² As discussed in paragraphs 15 to 17 and paragraphs 126 to 130 of this Ruling, the meaning of ‘residential setting’ in paragraph 38-25(3)(a) is expanded by subsection 38-25(3A).

^{2A} Subsection 6(1) of the Minister’s Determination.

- the services are supplied, under a written agreement with the supplier, as a package made up of:
 - daily living activities assistance services or nursing services;
 - other services mentioned in Division 8 of the aged care service list that are needed by the resident; and
 - accommodation; and
- the charges for services and for accommodation are payable to the same entity.

When are services provided in a ‘residential setting’?

6. A supply of services to an aged or disabled person can only be a GST-free supply of residential care under subsection 38-25(3) if they are provided in a ‘residential setting’.

7. Subject to the application of subsection 38-25(3A), which is about serviced apartments in retirement villages, the meaning of ‘residential setting’ in the context of paragraph 38-25(3)(a) does not include a person’s private home. It also excludes settings in which care may be provided but is medical in nature, such as a hospital or a psychiatric facility.

8. Privately funded nursing homes and aged care hostels that provide care to aged or disabled people, and which have the following characteristics, are a residential setting for the purposes of paragraph 38-25(3)(a):

- residents do not have a proprietary interest in the premisesproperty;
- residents can be moved at the operator’s discretion within the premises under certain circumstances;
- the premises are marketed and held out to the public as a place for the provision of care and accommodation, rather than just accommodation; and
- residents have limited rights compared to residents who lease or own their premises.

Example 1 – Residential setting

9. *Redi-Care (RC) is a privately funded facility that provides accommodation and care for aged and disabled people. RC provides studio style apartment accommodation to its 30 residents. All of the residents receive some daily living activities assistance services~~item 2.1 services for assistance with daily living~~. Several of the residents also receive some ~~item 3.8~~ nursing services. These services are provided by a registered nurse and care and support staff employed by RC.*

10. *Residents occupy their studio apartment accommodation provided by RC by way of licence under an accommodation agreement. The accommodation agreement does not provide the resident with exclusive possession of a particular studio apartment. The agreement stipulates that the resident may be moved to a different studio apartment or location at the operator’s discretion, to allow the care needs of the resident or other residents to be met.*

11. *RC provides care services to residents. The residents have no proprietary interest in their accommodation. The occupancy rights of the residents are not comparable with the rights of owners or tenants residing in their own private homes. The care services supplied*

to residents of RC are provided in a 'residential setting' for the purposes of paragraph 38-25(3)(a).

Example 2 – Not a 'residential setting'

12. Plane View (PV) is a privately funded aged care facility that provides accommodation and services for aged or disabled people in one room, studio style apartments. All of the 25 residents of PV receive some daily living activities assistance services~~item 2.1 services for assistance with daily living~~. These services are provided by care and support staff employed by PV.

13. PV residents occupy their accommodation by way of lease of an apartment within the facility. Under the lease, residents have exclusive occupancy of a specific studio apartment. The resident cannot be moved to another apartment by the operator of PV without their consent. The resident can have overnight guests and does not have to seek approval for temporary absences, for example, to attend external appointments or to visit friends and relatives, or travel.

14. The services supplied to residents by PV are not provided in a 'residential setting' and are not GST-free under subsection 38-25(3).³ The occupancy rights of residents of PV are such that they are tenants living in their private homes.

Serviced apartments in a retirement village

15. For the purposes of paragraph 38-25(3)(a), an independent living unit or serviced apartment in a retirement village is not ordinarily considered to be a residential setting. However, subsection 38-25(3A) expands the application of paragraph 38-25(3)(a). This expansion of paragraph 38-25(3)(a), however, is limited to 'serviced apartments' in 'retirement villages', as defined in the GST Act.⁴

~~Subsection 38-25(3A) allows for services provided to a resident of a 'retirement village' to be taken, for the purposes of paragraph 38-25(3)(a), to be provided in a residential setting if, and only if (emphasis added):~~

- ~~• he or she is a resident of a 'serviced apartment' in the retirement village; and~~
- ~~• there is in force a written agreement under which the operator of the retirement village provides daily meals and heavy laundry services to all of the residents of the apartment.~~

15A. Subsection 38-25(3A) allows for services provided to a resident of a 'retirement village' to be taken, for the purposes of paragraph 38-25(3)(a), to be provided in a residential setting if, and only if:

- he or she is a resident of a 'serviced apartment' in the retirement village; and
- there is in force a written agreement under which the operator of the retirement village provides daily meals and heavy laundry services to all of the residents of the apartment.

³ Depending upon the relevant circumstances, the daily living activities assistance services~~item 2.1 services~~ supplied to residents of PV may qualify as GST-free supplies of home care under section 38-30 or as GST-free supplies under the National Disability Insurance Scheme under section 38-38.

⁴ The terms 'serviced apartment' and 'retirement village' are defined in section 195-1, and are discussed at paragraphs 15 to 51 and paragraphs 126 to 155 of this Ruling.

15B. Subsection 38-25(3A) imposes an exhaustive rule for when services provided to residents of serviced apartments in retirement villages are treated as being provided in a 'residential setting' for the purposes of paragraph 38-25(3)(a). Use of the expression 'if, and only if' signifies an imperative and makes it clear that the requirements in paragraph 38-25(3)(a) are satisfied only in the circumstances specified in subsection 38-25(3A). Where either of those requirements is not met, services supplied to residents of serviced apartments in retirement villages do not satisfy the 'residential setting' requirement in paragraph 38-25(3)(a).

16. A supply of services to a resident of a serviced apartment (as defined in section 195-1) in a retirement village that satisfies the definition of retirement village in section 195-1 can, subject to the requirements specified in paragraph 38-25(3A)(b) and the requirements in paragraphs 38-25(3)(b) and 38-25(3)(c), be GST-free under subsection 38-25(3).

17. Services supplied to residents of independent living units (or other accommodation that is not a serviced apartment) in a retirement village, which satisfies the definition of retirement village in section 195-1, are not taken to be provided in a 'residential setting'. In these circumstances, the supplies of services cannot be GST-free under subsection 38-25(3).⁵

Retirement village

18. The definition of retirement village in section 195-1 contains the following requirements:

- (a) the premises are residential premises; and
- (b) accommodation in the premises is intended to be for persons who are at least 55 years old, or who are a certain age that is more than 55 years; and
- (c) the premises include communal facilities for use by the residents of the premises; but the following are not retirement villages:
 - (d) an approved residential care home; premises used, or intended to be used, for the provision of residential care (within the meaning of the Aged Care Act) by an approved provider (within the meaning of that Act);
- (e) commercial residential premises.

19. Retirement villages provide living accommodation in communal or semi-communal facilities and, based upon their physical characteristics, are residential premises to be used predominantly for residential accommodation. They therefore satisfy paragraph (a) of the definition of retirement village in section 195-1.

20. It is a question of fact, determined by the entry requirements of a particular complex or facility, whether premises are intended for persons of at least 55 years of age as required by paragraph (b) of the definition of retirement village in section 195-1.

21. Communal facilities referred to in paragraph (c) of the definition of retirement village in section 195-1 include the following types of facilities located within a retirement village complex: a library, a dining room, a recreation room, a chapel, a gymnasium, and outdoor recreational and leisure facilities such as a tennis court, a swimming pool or a barbeque

⁵ Depending upon the particular facts and circumstances, in some cases supplies of services to a resident of a retirement village who is not residing in a 'serviced apartment' may be GST-free supplies of home care under section 38-30.

area.⁶ Communal facilities do not include reception areas, pathways, gardens, driveways and landscaping.⁷

22. Paragraph (d) of the definition of ‘retirement village’ in section 195-1 excludes an approved residential care home. Approved residential care homes are facilities in relation to which registered providers are approved to deliver residential care services under the Aged Care Act. Residential care facilities that are managed by an entity that is an ‘approved provider’ for the purposes of the Aged Care Act and supplies residential care to the residents, either as an owner-operator or as a lessee of the premises under a lease granted by the owner of the premises, are excluded from the definition of retirement village in section 195-1 by paragraph (d).

22A. An approved residential care home is a residential care home that is approved in relation to a registered provider under paragraph 112(1)(a) of the Aged Care Act, or is taken to be approved in relation to a registered provider under section 120 of that Act.^{7A} The register maintained under section 141 identifies registered providers in the residential care category and the approved residential care home or homes to which each provider’s approval relates.^{7B}

22B. Under the Aged Care Act, a ‘residential care home’ does not include a retirement village, although it may include a place within a retirement village.^{7C} Although a residential care home and a retirement village are distinct concepts, a place within a retirement village may nevertheless be an approved residential care home where it satisfies the requirements of the Aged Care Act.

23. Paragraph (e) of the definition of ‘retirement village’ in section 195-1 excludes commercial residential premises. A retirement village where the occupants of the retirement village do not have the status of a guest is not commercial residential premises. Occupants of a retirement village do not have the status of a guest where they are granted overall control over at least part of the premises (for example, an independent living unit or serviced apartment) including the right to restrict entry by the management of the retirement village to that part of the premises.

Example 3 – Retirement village

24. *Birdseye Views is a residential complex comprising a number of serviced apartments and independent living units. There is a communal dining room and recreation room for use by the residents. Birdseye Views is not an approved residential care home.*

25. The rights and obligations of residents and the owner and operator of Birdseye Views are governed by the state retirement village legislation applicable where Birdseye Views is located. Entry as a resident of Birdseye Views is limited to retirees who are at least 55 years old. However, residents are able to reside at Birdseye Views with a spouse or partner who may not yet have attained 55 years of age.

26. *Residents reside at Birdseye Views in accordance with the terms of a residence contract entered into with the owner and operator of the complex. Under the residence contract, residents have exclusive possession of the serviced apartment or independent living unit that they occupy. They also have the right to restrict the entry of the retirement village management to their serviced apartment or independent living unit. The rights and obligations of residents and the owner/operator of Birdseye Views are governed by the*

⁶ See paragraph 23 of Goods and Services Tax Ruling GSTR 2007/1 *Goods and services tax: when retirement village premises include communal facilities for use by the residents of the premises.*

⁷ See paragraphs 25 and 26 of GSTR 2007/1.

^{7A} Section 195-1 of the GST Act and section 7 of the Aged Care Act. A ‘residential care home’ is further defined in subsections 10(2) to (4) of the Aged Care Act.

^{7B} Paragraph 141(3)(i) of the Aged Care Act.

^{7C} Paragraphs 10(3)(b) and 10(4)(b).

~~state retirement village legislation applicable in the state where Birdseye Views is located. Under the terms of the residence contract, residents of Birdseye have exclusive possession of the serviced apartment or independent living unit that they occupy and they have the right to restrict the entry of the retirement village management to their serviced apartment or independent living unit.~~

~~26A. Entry as a resident of Birdseye Views is limited to retirees who are at least 55 years old. However, residents are able to reside at Birdseye Views with a spouse or partner who may not yet have attained 55 years of age.~~

27. Birdseye Views is residential premises containing communal facilities for use by residents and the accommodation in the premises is intended to be for persons who are at least 55 years old. Birdseye Views is a 'retirement village' as defined in section 195-1.

28. Services supplied to residents that occupy serviced apartments satisfying the definition of 'serviced apartment' may be GST-free supplies of residential care under subsection 38-25(3), if they also satisfy the requirements of paragraph 38-25(3A)(b). However, supplies of services to residents that occupy accommodation at Birdseye Views, other than in a serviced apartment, will not be GST-free under subsection 38-25(3).

Example 4 – Not a 'retirement village'

29. Maxwell Co owns a residential complex, known as the Lucky Retirement Home, comprising 45 self-contained units that are designed to facilitate the provision of care to residents, a communal dining room and recreation room. Maxwell Co leases the Lucky Retirement Home to Sunshine Care Co.

~~30. Sunshine Care Co is a registered provider under the Aged Care Act in the residential care category. The Lucky Retirement Home is an approved residential care home in relation to Sunshine Care Co and is an approved residential care home covered by its registration. Sunshine Care Co operates the Lucky Retirement Home as an aged care hostel to provide funded residential care services to residents. Sunshine Care Co is an 'approved provider' as defined in the Aged Care Act. The Lucky Retirement Home is operated by Sunshine Care Co as an aged care hostel for the provision of residential care, as defined in the Aged Care Act.~~

31. The Lucky Retirement Home is ~~an approved residential care home used by an approved provider to provide residential care~~, and is therefore excluded from being a retirement village by paragraph (d) of the definition of retirement village in section 195-1.

32. The Lucky Retirement Home is not a retirement village as defined in section 195-1. Therefore subsection 38-25(3A) does not apply.⁸

Serviced apartment

33. The definition of serviced apartment in section 195-1 contains the following requirements:

- (a) the apartment is designed to be occupied by aged residents who require ~~daily living activities assistance services or nursing services;~~^{8A} ~~and either or both of the following:~~

⁸ In this example, the supplier of the services, Sunshine Care Co, is ~~a an approved~~-registered provider as defined in the Aged Care Act ~~and the services are provided at an approved residential care home~~. Therefore, the services supplied to residents of the Lucky Retirement Home may be GST-free under subsection 38-25(1).

^{8A} See section 195-1.03 and subsection 38-25.01(2) of the GST Regulations.

- ~~(i) — item 2.1 services;~~
 - ~~(ii) — item 3.8 services; and~~
- (b) at least one responsible person is continuously
 - (i) on call to render emergency assistance to the residents of the apartment; and
 - (ii) in reasonable proximity to the apartment; and
- (c) the apartment is part of a single complex of apartments to which paragraphs (a) and (b) apply, and is accessible from a common corridor linking the apartment to the other apartments in the complex; and
- (d) there is in the retirement village a communal dining facility that is available for use by the residents of apartments in the retirement village to which paragraphs (a), (b) and (c) apply.

However, a detached house, row house, terrace house, town house or villa unit is not a serviced apartment.

34. Serviced apartments in retirement villages share many features and characteristics that are also common to other types of accommodation provided in retirement villages, such as independent living units. Independent living units are designed for people who are capable of living independently and do not require daily living activities assistance services or nursing services, ~~as set out in items 2.1 and 3.8 of Schedule 1 to the Quality of Care Principles.~~ Independent living units are not serviced apartments as defined in section 195-1.⁹

Paragraph (a) requirement

35. It is expected that an apartment which is designed to be occupied by for a person who requires daily living activities assistance services or nursing services ~~item 2.1 services, item 3.8 services~~, or a combination of both types of services, as required by paragraph (a) of the definition of serviced apartment in section 195-1 would include fixtures and fittings consistent with those required by a person who requires daily living activities assistance services or nursing services, for example, bathroom hand rails, grab rails, wheelchair ramps, and wide doorways that allow for wheelchair access.

36. The following features, while they are not necessary and not determinative of whether an apartment satisfies paragraph (a) of the definition of serviced apartment in section 195-1, are also consistent with an apartment being designed to be occupied by for a person who requires daily living activities assistance services or nursing services ~~item 2.1 services, item 3.8 services~~ or a combination of both types of services:

- a smaller physical layout, for example, a one room studio style apartment with limited or no cooking facilities, comprising only one or two bedrooms and a separate living area;
- limited self-catering services, for example, a small kitchenette with a microwave and bar fridge; or
- no laundry, or only limited self-laundry facilities.

⁹ See paragraph 1.25 of the Explanatory Memorandum to the Tax Laws Amendment (Retirement Villages) Bill 2004.

Paragraph (b) requirement

37. Paragraph (b) of the definition of serviced apartment in section 195-1 requires someone who is capable of assisting a person who requires daily living activities assistance services or nursing services item 2.1 or item 3.8 services to be available to provide immediate assistance to residents when necessary. The provision of a personal medical emergency call device that alerts an off-site external service provider of a potential medical emergency when activated by the resident is not sufficient to satisfy the requirement in paragraph (b) of the definition of serviced apartment in section 195-1, which requires a responsible person be on call continuously to render emergency assistance to residents.

38. However, an emergency call device which alerts at least one responsible person who is on-site within the precincts of the retirement village, and who may be an external service provider, is sufficient to satisfy paragraph (b) of the definition of serviced apartment in section 195-1. The requirement is also met where at least one responsible person is shared between two adjacent retirement villages and that person is on-site at one of those retirement villages at any time.

39. The reference to ‘responsible person’, in the context that it appears in paragraph (b) of the definition of serviced apartment in section 195-1, means someone who is capable of rendering emergency assistance, and who is also suitably qualified to render emergency assistance to persons who require daily living activities assistance services or nursing services item 2.1 or item 3.8 services. For example, a ‘responsible person’ would include a registered nurse or qualified aged care worker but would not include general employees such as receptionists, gardeners, cleaners and security guards.

Paragraph (c) requirement

40. A common corridor required by paragraph (c) of the definition of serviced apartment in section 195-1 includes internal and external passageways that connect the apartments in a single complex of apartments. In this context, the phrase ‘single complex of apartments’ draws upon the ordinary meaning of ‘apartments’ which refers to rooms or units located within a single building. The composite expression ‘single complex of apartments’ is read as a single building in which each apartment shares a common wall or walls with other apartments and does not include a single freestanding apartment.

40A. A common corridor does not include an uncovered passageway that connects an apartment to another apartment that is outside of the single complex of apartments. It also does not include pathways and roads, including pathways and roads connecting a single complex with another single complex, within the retirement village. One retirement village may comprise of more than one single complex. Paragraph (c) of the definition of serviced apartment in section 195-1, however, only requires the apartments in a single complex to be accessible from a common corridor and does not require each single complex, when there is more than one single complex in the retirement village, to also be connected by a common corridor.

40B. A common corridor may include a covered passageway which provides protection from the elements, is lit, and is wide enough to allow passage of mobility assistance devices such as walkers, scooters and wheelchairs. A covered passageway, either alone, or in combination with an internal passageway, must provide access to and between all apartments in the single complex. It does not include a covered or an uncovered passageway that connects a freestanding apartment to another freestanding apartment.

Paragraph (d) requirement

41. Paragraph (d) of the definition of serviced apartment in section 195-1 requires residents to have access to a communal dining facility that is available for use by them. The communal dining facility must be located within the retirement village in which the apartment is situated but it does not have to be connected to the complex of serviced apartments.

Example 4A – Assisted living unit with external corridor is a ‘serviced apartment’

41A. *Sunny Months Retirement Haven (Sunny Months) is a retirement village as defined by section 195-1. Sunny Months offers accommodation described as assisted living units. There are 60 assisted living units configured in rows of six units with a covered passageway providing access to each unit through an external doorway. There is a communal dining hall, within the retirement village, for the use of all residents.*

41B. *Each set of six units is located in a single complex of apartments, within the retirement village. They each contain one or two bedrooms, a kitchenette, a separate living area, and bathroom. The bathrooms in each unit are fitted with grab rails and handrails. All of the units are accessible from the covered passageway.*

41C. *The covered passageway can be used by nursing and care staff when a resident requires assistance. This permanent structure provides protection from the elements, is lit, and is wide enough to allow passage of mobility assistance devices such as walkers, scooters and wheelchairs.*

41D. *The assisted living units at Sunny Months have physical characteristics which indicate that they are designed for people who require daily living activities assistance services and nursing services. The assisted living units also satisfy all of the other requirements specified in the definition of serviced apartments in section 195-1 and are ‘serviced apartments’ for the purposes of subsection 38-25(3A).*

41E. *Services supplied to residents of the assisted living units at Sunny Months may, subject to the requirements of paragraph 38-25(3A)(b), be taken to be provided in a residential setting and may be GST-free supplies of residential care under subsection 38-25(3).*

Example 5 – Assisted living unit with internal corridor is a ‘serviced apartment’

42. *Happy Days Retirement Haven (Happy Days) is a retirement village as defined in section 195-1. Happy Days offers two different styles of accommodation to residents which are referred to as self-contained units and assisted living units.*

43. *The assisted living units are located within a single complex of apartments in the retirement village. They each contain one or two bedrooms, a separate living area, bathroom and kitchenette. The bathrooms in each unit are fitted with grab rails and handrails. All of the assisted living units are linked and accessible from a passageway within the single complex. Call buttons are fitted in all of the rooms of each unit which, when activated, alert on-site nursing and care staff that a resident requires assistance.*

44. *There is a communal dining hall, within the retirement village, for the use of all of the residents of Happy Days.*

45. *The assisted living units at Happy Days exhibit physical characteristics which indicate that they are designed for people who require daily living activities assistance services and nursing services. They are part of a single complex and all of the apartments are accessible from an internal passageway. The assisted living units also satisfy all of the*

other requirements specified in the definition of serviced apartment in section 195-1 and are 'serviced apartments' for the purposes of subsection 38-25(3A).

46. Services supplied to residents of the assisted living units at Happy Days may, subject to the requirements of paragraph 38-25(3A)(b), be taken to be provided in a residential setting and may be GST-free supplies of residential care under subsection 38-25(3).

Example 5A – Assisted living unit not a 'serviced apartment'

46A. If the assisted living units at Happy Days Retirement Haven (referred to in Example 5 of this Ruling) are freestanding units (not linked by common walls), then the units are not part of a single complex of apartments that are accessible from an internal passageway or covered passageway that links each apartment to the other apartments.

46B. The assisted living units, therefore, do not satisfy paragraph (c) of the definition of serviced apartments in section 195-1 which requires the apartments to be linked by a common corridor. Services supplied to residents of the assisted living units at Happy Days are not provided in a residential setting and are not GST-free supplies of residential care under subsection 38-25(3).

Example 6 – Self-contained unit not a 'serviced apartment'

47. The self-contained units at Happy Days Retirement Haven (referred to in Example 5 of this Ruling) consist of 60 two-bedroom units, configured in groups of four units under the one roof. Each self-contained unit is accessible from an external door only, and has uncovered pathways or roads or both linking the units.

48. Each self-contained unit comprises one or two bedrooms, a full kitchen and laundry facilities, a separate living area, separate bathroom and a small courtyard garden. Some of the units also have a carport for the resident's motor vehicle.

49. Similar to the assisted living units at Happy Days, the bathrooms of the independent living units are fitted with grab rails and handrails and there is one call button within each unit which, when activated, alerts on-site nursing and care staff that a resident requires assistance.

50. The self-contained units are not serviced apartments as defined in section 195-1 for the purposes of subsection 38-25(3A).

51. While the self-contained units exhibit features consistent with them being designed for persons who require [daily living activities assistance services or nursing services](#)~~item 2.1 or item 3.8 services~~, the self-contained units do not satisfy paragraph (c) of the definition of 'serviced apartment' in section 195-1 which requires the apartments to be linked by a common corridor. Services supplied to residents of the self-contained units at Happy Days are not taken to be provided in a residential setting and are not GST-free supplies of residential care under subsection 38-25(3).¹⁰

Provision of daily meals and heavy laundry to all residents of a serviced apartment

52. As explained in paragraphs 15 [and 15A](#) of this Ruling, subsection 38-25(3A) says that services provided to a resident of a serviced apartment in a retirement village will be

¹⁰ Depending upon the particular facts and circumstances, in some cases supplies of services to a resident of a retirement village who is not residing in a 'serviced apartment' may be GST-free supplies of home care under section 38-30 or GST-free supplies under the National Disability Insurance Scheme under section 38-38.

treated as provided in a ‘residential setting’ only if there is a written agreement in force under which the operator of the retirement village provides daily meals and heavy laundry services to all residents of the apartment.¹¹

53. When the requirements in subsections 38-25(3) and (3A) are considered together, and the context and purpose of the provisions are taken into account, an operator will **only** meet the requirements in subsection 38-25(3A) when it satisfies the following three principles:

- the resident must have a continuing need for the provision of daily meals and heavy laundry services;
- the operator must have an obligation to provide daily meals and heavy laundry services; and
- the operator must make available daily meals and heavy laundry services.

Principle One – resident must have a continuing need for the provision of daily meals and heavy laundry services

54. A resident must have a continuing need for ‘daily meals’ and ‘heavy laundry services’. Both expressions, while undefined, must be read taking into account their context and the purpose of the provision and in a way that results in a coherent interpretation of section 38-25.^{12A}

Daily meals

54A. Consistent with this, the meaning of ‘daily meals’ takes into account the requirements set out in Division 8 of the aged care service list, specifically item 9 of section 8-145 of the Aged Care Rules consistently set out in the Quality of Care Principles, and currently reflected in clause 1 and item 1.10 of Schedule 1 to the Quality of Care Principles referred to in paragraph 38-25(3)(b). That is, it means meals^{12B} that are needed by the recipient on a continuing basis and:

- are of adequate variety, quality and quantity for each resident of the serviced apartment;
- include at least 3 meals served each day (including the option of dessert with either lunch or dinner) plus morning tea, afternoon tea and supper, with reasonable flexibility in mealtimes if requested are served each day at times generally acceptable to both residents and management, and generally consist of three meals per day plus morning tea, afternoon tea and supper; and
- include special diets where required to meet the individual’s medical, cultural or religious needs.^{12C} take into account variances in a resident’s

¹¹ For the purposes of paragraph 38-25(3A)(b), the residents of each individual apartment are ‘all of the residents of the apartment’, rather than the residents of all of the serviced apartments in the retirement village.

¹² [Omitted.]

^{12A} See the Minister’s Determination and the Explanatory Memorandum to the Tax Laws Amendment (Retirement Villages) Bill 2004, in particular paragraph 1.26. See also, SAS Trustee Corporation v Miles [2018] HCA 55 at [20] and [41] and ENT19 v Minister for Home Affairs [2023] HCA 18 at [87].

^{12B} ‘Meals’ is defined as ‘one of the regular repasts of the day, as breakfast, lunch, or dinner’ (Pan Macmillan Australia (2026) *Macquarie Dictionary online*, www.macquariedictionary.com.au, accessed 20 August 2026).

^{12C} This can include, but is not limited to, enteral feeding, nutritional supplements, texture modified meals and thickened fluids, diets to address food allergies and intolerances, and vegetarian, vegan, kosher and halal

~~meal requirements as a result of medical needs or religious or cultural observance.~~

54B. ~~Examples of circumstances where meals may not be taken or consumed, including for medical, cultural or religious reasons, are discussed under Principle Three. Examples of what ‘generally’ means and the circumstances that would satisfy a medical need or a religious or cultural observance are discussed under Principle Three.~~

Heavy laundry services

54C. The phrase ‘heavy laundry services’ in paragraph 38-25(3A)(b) refers to the provision of a laundry service for heavy or bulky household items, including bed linen, towels and blankets. This reflects the ordinary understanding of the expression, read in its statutory context, including the distinction drawn in the aged care service list between household (non-personal) laundry and residents’ personal laundry.^{12D}

Example 7 – Continuing need for daily living activities assistance services and nursing services for one resident but not the provision of daily meals and heavy laundry services to all residents of a serviced apartment

55. Jack and Elizabeth live in a serviced apartment in a retirement village. Jack requires daily living activities assistance services and nursing services and has a continuing need for these services. Elizabeth does not require any of these services and cares for herself without assistance.

55A. Residents of the serviced apartments can choose to have daily meals and heavy laundry services provided by the operator of the retirement village for an extra fee. However, Elizabeth prefers to do her own laundry and enjoys cooking. She cooks lunch and dinner for herself and Jack each day, except for once a week when they have dinner in the communal dining room with friends who also reside at the retirement village.

55B. The daily meals and heavy laundry requirements in paragraph 38-25(3A)(b) are not satisfied. Although the operator offers daily meals and heavy laundry services, there is no arrangement under which the operator provides, or is obliged to provide daily meals to Jack and Elizabeth (**all** residents in the serviced apartment). Elizabeth and Jack also do not have a continuing need for the provision of daily meals and heavy laundry services.

Principle Two – operator must have an obligation to provide daily meals and heavy laundry services

56. The written agreement must put the operator of the retirement village under a legal obligation to all residents in the serviced apartment to provide daily meals and heavy laundry services.

diets (but not for meeting the individual’s social preferences on food source such as non-genetically modified and organic).

^{12D} Table items 6 and 8 of section 8-145 in Division 8 of the aged care service list draw a distinction between laundering of household items (for example, bed linen and towels) and personal laundry (for example, clothing). Prior to 1 November 2025, item 1.8 of Schedule 1 to the Quality of Care Principles drew a similar distinction, using the expressions ‘heavy laundry facilities and services’ and ‘personal laundry services’.

Example 7A – Operator’s obligation – arises on election by resident

57. Assume the same facts for Example 7 of this Ruling but that Elizabeth loses hand function in September ~~2026~~2018 and consequently requires daily living activities assistance ~~services (item 2.1 of Schedule 1 to the Quality of Care Principles)~~. As a result, Elizabeth and Jack exercise an option in their contract to have their daily meals and heavy laundry services provided to them by the operator of the retirement village because they **both** have a continuing need for these services.

58. Until September ~~2026~~2018, the daily meals and heavy laundry ~~services~~ requirement in paragraph 38-25(3A)(b) was not satisfied. Although all daily meals and heavy laundry services were available if Jack and Elizabeth chose to have them provided by the operator, there was no arrangement under which the operator was required to provide daily meals and heavy laundry services to Jack and Elizabeth because neither had a continuing need for these services.

59. On exercise of the option by Elizabeth and Jack in September ~~2026~~2018, the operator is obligated to provide daily meals and heavy laundry services in accordance with the terms of the contract. Therefore, the requirement in paragraph 38-25(3A)(b) is met.

Example 8 – Operator’s obligation satisfied – external provider as agent for operator

60. Ernie lives at the Sparkling Shores Retirement Village. The terms of the residence contract that Ernie has with the operator require the operator to provide daily meals and a heavy laundry service to Ernie for a daily fee payable to the operator.

60A. The operator of the Sparkling Shores Retirement Village has a contract with an external catering company that delivers all of Ernie’s daily meals to him on behalf of the operator. The daily meals requirement in paragraph 38-25(3A)(b) is met in these circumstances.

Example 8A – Separate agreement with operator

61. Margaret resides in a serviced apartment in a retirement village. The operator provides all of Margaret’s meals and does all her laundry.

61A. Margaret’s residence contract includes a general provision which states that meals and laundry services can be arranged should the resident require them. Margaret enters into a separate written agreement with the operator who agrees to provide daily meals and laundry services for a fee.

61B. The separate written agreement with the operator satisfies the ‘written agreement’ requirement in paragraph 38-25(3A)(b). In the absence of this separate agreement, the residence contract would not satisfy the requirement for a ‘written agreement’ because there is no specific provision that creates an obligation to provide daily meals and heavy laundry services.

Principle Three – operator must make available daily meals and heavy laundry services

62. The operator must *make available* heavy laundry services to all residents of the serviced apartment.

62A. The operator must also *make available* daily meals, although this requirement may still be satisfied where the resident does not take and eat every meal. The number of meals that the operator must make available is set out in paragraph 54A of this Ruling, is set under item 1.10 of Schedule 1 to the Quality of Care referred to in paragraph 38-25(3)(b), which requires generally three meals per day plus morning tea, afternoon tea and supper. A resident may decline to take or eat a meal in limited or irregular circumstances, including, for example, for cultural, religious, family, dietary, personal taste, health, recreational or medical reasons.

62B. Whether a failure to take meals leads to paragraph 38-25(3A)(b) not being met by the operator depends on the circumstances. In general terms, limited or irregular situations of the kind mentioned will not breach an operator's obligation. However, a persistent or regular pattern of not taking or eating meals unrelated to the situations mentioned will be an indicator that the paragraph 38-25(3A)(b) obligation is not being met.

Example 9 – Make available daily meals – temporary absence

63. *Neisha resides in a serviced apartment at Paradise Vista Retirement Village. Under a written agreement, the operator provides Neisha with daily meals and heavy laundry services.*

63A. *On Neisha's birthday, her family takes her out for lunch. Although Neisha does not take one or more meals on that day, the daily meals requirement in paragraph 38-25(3A)(b) is still met as Neisha has not taken lunch on this irregular occasion due to family reasons.*

Example 9A – Make available daily meals – meal provided by family

64. *Dino resides in a serviced apartment at Boundless Vistas Retirement Village. The operator is required to provide Dino with daily meals and heavy laundry services.*

65. *Dino's family tells Boundless Vistas Retirement Village that they will visit him weekly and provide a meal for Dino. They cook a meal, bring a takeaway or order a takeaway for Dino on these days.*

65A. *While there is a regular pattern of not taking meals, the meals not taken are limited in number and in proportion to the meals provided. The daily meals requirement in paragraph 38-25(3A)(b) is met.*

Example 9B – Make available daily meals – religious and cultural events

66. *Assuming the same facts for Example 9A of this Ruling, because of his religious convictions, Dino abstains from eating any food from sunrise to sunset during Ramadan. He usually ends his daily fast at a family member's house, as is the custom.*

66A. *Although Dino does not take one or more meals during that period, the meals requirement in paragraph 38-25(3A)(b) is still met. This is because the meals not taken are limited in number and in proportion to the meals provided, and Dino has religious and cultural reasons for not taking the daily meals.*

Example 9C – Make available daily meals – personal taste

67. *Bau-Ling resides in a serviced apartment at Sparkling Shores Retirement Village. The operator is required to provide Bau-Ling with daily meals and heavy laundry services.*

67A. *Bau-Ling does not like the tuna bake that is made available as a daily meal by the operator. This week, she declines the meal. Bau-Ling has a personal taste reason that is a limited and irregular circumstance for not taking the meal. The daily meals requirement in paragraph 38-25(3A)(b) is met.*

Example 9D – Make available daily meals – regular pattern of refusal

68. *Assuming the same facts for Example 9C of this Ruling, Bau-Ling later adopts the regular pattern of ordering takeaway meals every second day for lunch for reasons other than those mentioned in paragraph 67A of this Ruling.*

68A. *Bau-Ling informs the retirement village operator of her decision and the operator is no longer required to make lunches available to her on those days as a result.*

68B. *The daily meals requirement in paragraph 38-25(3A)(b) is no longer met because of the regular pattern adopted of ordering takeaway meals every second day. This situation is more substantial than limited circumstances and shows a regular pattern.*

Example 10 – Make available daily meals – resident is unwell

69. *Siobhan lives in a serviced apartment at a retirement village where the operator is required to provide her with daily meals and heavy laundry services.*

69A. *After an outing, Siobhan becomes unwell and cannot eat all the meals provided.*

69B. *Although Siobhan does not take any meals while she is unwell, the operator continues to meet the paragraph 38-25(3A)(b) obligation while Siobhan is unwell. This is because this is a limited and irregular circumstance for not taking the meals.*

Example 10A – Make available daily meals – medical needs

70. *Assuming the same residency facts for Example 10 of this Ruling, Siobhan continues to feel unwell, is prescribed medication and is required to fast before medical testing.*

71. *Although Siobhan does not take any meals until the medical tests have been completed, the operator continues to meet the daily meals requirements in paragraph 38-25(3A)(b). This is because this is a limited and irregular circumstance for not taking the meals.*

When are services that are being provided in a ‘residential setting’ GST-free supplies of residential care?

72. Services supplied to residents of serviced apartments in a retirement village (as defined), and to residents of a privately funded nursing home or aged care hostel in a ‘residential setting’ are GST-free supplies of residential care if:

- the Minister has determined in writing that the services are of a kind covered by [a provision of the aged care service list specified in regulations made for the purposes of paragraph 38-25\(3\)\(b\) Schedule 1 to the Quality of Care Principles](#),¹³ and

¹³ Paragraph 38-25(3)(b).

- the services include, and are only provided to people who require, the care services set out in a provision of the aged care service list specified in regulations made for the purposes of paragraph 38-25(3)(c). ~~item 2.1 or item 3.8 of Schedule 1 to the Quality of Care Principles.~~¹⁴

72A. These requirements, including the relevant Minister's Determination and provisions of the aged care service list specified for the purposes of paragraphs 38-25(b) and (c), are outlined in paragraphs 5 to 5C of this Ruling.

Services are provided to residents who require daily living activities assistance services or nursing services ~~item 2.1 or item 3.8 services~~ and who have a continuing need for those services

73. Together, paragraph 38-25(3)(c) and subsection 38-25.01(2) of the GST Regulations require that the services include, and are only provided to people who require, daily living activities assistance services or nursing services. Paragraph 38-25(3)(c) requires services to be provided to a resident who requires item 2.1 services for daily living activities assistance or item 3.8 services. Similarly, the Minister's Determination, referred to in paragraph 38-25(3)(b), requires a care recipient to have a continuing need for those services.¹⁵ Services supplied to residents who do not satisfy these requirements are not GST-free supplies of residential care under subsection 38-25(3).^{15A}

74. It is not necessary for the resident to require and to have a continuing need for all of the daily living activities assistance services and nursing services. ~~item 2.1 and item 3.8 services set out in Schedule 1 of the Quality of Care Principles.~~ However, a resident must have a current existing need for one or more of those services that is ongoing rather than occasional, isolated or sporadic.

75. In determining whether this requirement is satisfied, the Commissioner will consider objective evidence of a resident's requirement and continuing need for daily living activities assistance services or nursing services. ~~item 2.1 or item 3.8 services.~~ This objective evidence may include one or more of the following factors:

- a report of an assessment of a resident's care requirements by a registered medical practitioner;
- a report of an assessment of a resident's care requirements by a registered nurse, a registered physiotherapist, or a registered occupational therapist; or
- a report of an assessment of a resident's care requirements undertaken by more than one person, including at least one registered health professional.

A package of services and accommodation under a written agreement

76. The Minister's Determination referred to in paragraph 38-25(3)(b) also requires accommodation to be included in a package of services supplied to a resident under a written agreement, and the charges for both the services and accommodation must be payable to the same entity.¹⁶

77. However, accommodation is not required to be included in a package of services supplied to residents of serviced apartments when a serviced apartment is supplied by

¹⁴ Paragraph 38-25(3)(c).

¹⁵ Paragraph 6(3)(a)6(4)(a) of the Minister's Determination.

^{15A} Depending upon the particular facts and circumstances, in some cases supplies of services to residents under the National Disability Insurance Scheme may be GST-free supplies under section 38-38.

¹⁶ Paragraph 6(3)(b)6(4)(b) of the Minister's Determination.

way of lease, hire or licence, or by sale, or by supply of certain securities; and the other circumstances stated in subsection 38-25(4A)¹⁷ apply.¹⁸ In those cases, the written agreement required by the Minister's Determination only has to provide for a supply of a package of services.

78. Where the supplier, as principal, contracts with a third party for the provision of some items in the package, the requirement in the Minister's Determination that the package be supplied by the one entity is met when the third party is the supplier's agent, or a subcontractor of the supplier, and the charges are payable to the principal.¹⁹

79. However, if the supplier merely facilitates or arranges the provision of some part of the package by a third party, and the third party is making supplies in its own right directly to the resident, then separate supplies are made by each entity, and neither of the suppliers makes a GST-free supply of residential care under subsection 38-25(3).

80. The written agreement required under the Minister's Determination must stipulate a package of services that the operator is obligated to provide to the resident, consistent with the resident's care requirements, and those services must include some daily living activities assistance services or nursing services item 2.1 or item 3.8 services. A general provision in an accommodation agreement, lease, licence, or hire agreement stating that the provision of daily living activities assistance services or nursing services item 2.1 or item 3.8 services can be arranged if the resident requires them is not sufficient to satisfy the requirements specified in paragraph 6(3)(b)6(4)(b) of the Minister's Determination. The resident must have a legal right to have services of this kind provided by the operator.

Example 11 – A package of accommodation and services under a written agreement

81. *Ambience Point is a residential facility that provides services and accommodation to aged and disabled people.*

82. *Each resident's individual accommodation agreement specifies the services relevant to the resident's particular care requirements that will be provided to the resident and the fees that are payable to the operator for those services. The services provided to each resident include some daily living activities assistance services or nursing services item 2.1 or item 3.8 services, or a combination of both.*

83. *Several of the residents require physiotherapy services and the operator has agreed to provide this service as part of the terms of the relevant residents' accommodation agreements. The operator contracts with an external physiotherapy practice to provide these services and a qualified physiotherapist visits the facility twice a week to provide these services to residents on behalf of the operator. Fees for these physiotherapy services are payable by the resident to the operator.*

84. *The services supplied to residents of Ambience Point, including the physiotherapy services supplied by the agent, satisfy the requirements of paragraphs 6(3)(b)6(4)(b) and 6(3)(c)6(4)(e) of the Minister's Determination. That is, the services are supplied under a written agreement as a package of services and accommodation, and the charges payable for the services and accommodation are payable to the same entity (in this case, the operator).*

¹⁷ The operation of subsection 38-25(4A) is discussed at paragraphs 99 to 103 of this Ruling and is further explained at paragraphs 187 to 190 of this Ruling.

¹⁸ See item 18 of Schedule 1 to *Tax Laws Amendment (Retirement Villages) Act 2004*.

¹⁹ Refer to Goods and Services Tax Ruling GSTR 2000/37 *Goods and services tax: agency relationships and the application of the law*.

Example 12 – Paragraphs 6(3)(b)6(4)(b) and 6(3)(c)6(4)(e) of the Minister's Determination are not satisfied

85. *Mountain Top Views is a residential complex providing supported accommodation to aged people.*

86. *Accommodation agreements between the manager and residents allow for residents to occupy studio style apartment accommodation under a licence. The accommodation agreements also stipulate that the provision of care services will be arranged as, and when, they are required by the resident.*

87. *On-site support staff employed by Mountain Top Views provide some assistance to residents. For example, managing and supervising the taking of medication by residents, and arranging and supervising social activities for residents.*

88. *A number of residents at Mountain Top Views also require additional daily living activities assistance services and nursing services.~~nursing care and/or personal care services~~. Mountain Top Views facilitates the provision of these services to residents by arranging for external care providers to visit residents, assess their care needs, and supply a tailored care package suitable for the care needs of each individual resident. The fees for these services are payable directly by the resident to the external care provider.*

89. *In this case, the requirements specified in paragraphs 6(3)(b)6(4)(b) and 6(3)(c)6(4)(e) of the Minister's Determination are not satisfied. The daily living activities assistance services and nursing services~~nursing and personal care services~~ required by residents are not supplied under a written agreement as a package of services and accommodation. The accommodation and services are supplied by different entities, and the charges for the accommodation and services are payable to different entities.*

Accommodation

When is accommodation in a privately funded nursing home or aged care hostel GST-free?

90. Under subsection 38-25(4)²⁰, a supply of accommodation to a resident of a privately funded nursing home is GST-free if it is made to a resident *in the course of* making a supply of services to that resident that are GST-free residential care services under subsection 38-25(3).

91. Accommodation is only supplied in the course of making a supply of services that is GST-free under subsection 38-25(3) if the services and the accommodation are supplied at the same time. If a resident enters a privately funded facility, only for the provision of accommodation, without the provision of GST-free residential care services that satisfy the requirements of subsection 38-25(3), the supply of accommodation is not GST-free under subsection 38-25(4).

92. Also, services supplied to a resident must be of a sufficient level that it can be said that the accommodation facilitates the supply of care services, and that the accommodation is therefore being supplied in the course of supplying those care services. That is, the accommodation is integral to the supply of the care, and the residents are accommodated at the facility so that they can receive the care services which they require.

93. A supplier of accommodation in a private facility that merely facilitates or arranges for an external provider to supply GST-free home care services, or services through a

²⁰ The supply of accommodation in serviced apartments, in particular circumstances, is addressed in subsection 38-25(4A). See paragraphs 99 to 103 and paragraphs 187 to 190 of this Ruling.

~~specialist aged care program, or flexible care services~~ directly to a resident is not making a GST-free supply of accommodation under subsection 38-25(4).

Temporary absences

94. GST-free residential care services and associated accommodation are considered to continue to be supplied as a package during short, temporary periods of absence of a resident from a nursing home, aged care hostel, or a serviced apartment in a retirement village.

Example 13 – Accommodation not ‘in the course of’ a supply of GST-free residential care

95. *Eleanor resides in a privately funded residential complex that provides accommodation to aged and disabled people. The operator of the complex provides all of Eleanor’s daily meals and assists with her laundry. Eleanor also requires daily living activities assistance services~~item 2.1 services~~, including regular assistance with personal hygiene and showering.*

96. *Eleanor’s personal care requirements have been assessed by an external home care provider, and the assistance that Eleanor requires is provided to her directly by the external home care provider, ~~through a home care package that has been~~ tailored to her own personal care requirements. Eleanor pays a weekly fee to the external care provider for this service.*

97. *The accommodation that is being supplied to Eleanor by the operator of the complex is an input taxed supply of residential accommodation and is not a GST-free supply of accommodation under subsection 38-25(4).*

98. *Although the home care services that are being supplied to Eleanor may be GST-free supplies of home care, the operator of the complex is not supplying accommodation to Eleanor in the course of supplying GST-free residential care services, under subsection 38-25(3).*

When is a supply of a serviced apartment in a retirement village GST-free?

99. A supply is GST-free under subsection 38-25(4A) if:

- it is a supply of residential premises, consisting of a serviced apartment in a retirement village, by way of sale, lease, hire, licence, or a supply of a right under a security to participate in a retirement village scheme (a share arrangement);
- the premises are supplied to a resident, who requires daily living activities assistance services or nursing services~~(item 2.1 services) or nursing services (item 3.8 services)~~; and
- the premises are supplied in connection with one or more supplies, or proposed supplies, to the person that are or will be GST-free supplies of care services under subsection 38-25(3).

100. For a supply of a serviced apartment to be GST-free under subsection 38-25(4A), the supply must be made to a resident who:

- requires daily living activities assistance services or nursing services when the supply is made;²¹ and
- is, or will be, receiving services that are GST-free supplies of residential care under subsection 38-25(3).²²

However, the supplier of the services does not need to be the same entity that supplies the serviced apartment to the resident.

Example 14 – GST-free supply of a serviced apartment

101. Barney has been assessed by a registered medical practitioner as requiring some daily living activities assistance services and nursing services~~item 2.1 and item 3.8 services~~ and decides to move into a serviced apartment at the Babbling Brook Retirement Village (Babbling Brook).

102. Barney leases a serviced apartment from Bernard Co, the owner of Babbling Brook, for \$1200 per month. Baxter Co is the operator of Babbling Brook and, under a written agreement, supplies daily meals and a heavy laundry service to Barney, together with all of the daily living activities assistance services and nursing services~~item 2.1 and item 3.8 services~~ that he requires.

103. The supply to Barney, by way of lease by Bernard Co, of the serviced apartment at Babbling Brook is GST-free under subsection 38-25(4A) because:

- Barney is a person who requires daily living activities assistance services or nursing services~~item 2.1 or item 3.8 services~~; and
- the supply is made ‘in connection with’ the GST-free supplies of residential care services that Baxter Co is making to Barney under subsection 38-25(3).

Date of effect

104. When finalised, it is proposed that the updates that are the subject of this draft Consolidation will apply from 1 November 2025, the commencement date of the amendments contained in the *Aged Care and Other Legislation Amendment Act 2025*.

Transitional administrative arrangements

105. Issue 10 of the Retirement Villages Industry Partnership – issues register (‘item 10 of the issues register’) and the fact sheet – *GST and serviced apartments in retirement villages*: NAT 12761 (‘the fact sheet’) will be withdrawn when this Ruling is issued.

106. For tax periods commencing prior to the date of issue of this Ruling (11 July 2012), the Commissioner will not seek to disturb the GST treatment of care services and accommodation supplied to residents of retirement villages and privately funded nursing

²¹ Paragraph 38-25(4A)(a).

²² Paragraph 38-25(4A)(d).

GSTR 2012/3DC

Page status: **draft only – for comment**

Page 25 of 46

homes and hostels where you have followed and applied the views set out in item 10 of the issues register or the fact sheet, in good faith.

Commissioner of Taxation

2 September 2026

Appendix 1 – Explanation

❶ *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the proposed binding public ruling.*

Section 38-25 background

107. Section 38-25 addresses the GST treatment of services and accommodation provided to aged or disabled persons in a residential care facility.

108. Each of subsections 38-25(1), 38-25(2) and 38-25(3) refers to services covered by a provision of the aged care service list specified in the GST regulations (or services determined by the Minister to be of a kind covered by such a provision). The aged care service list specifies services for which Commonwealth funding may be provided under the Aged Care Act.~~listed in Schedule 1 to the Quality of Care Principles, or services of a kind covered by Schedule 1 to the Quality of Care Principles. Schedule 1 to the Quality of Care Principles specifies the services and care required to be provided to residents of residential care facilities that qualify for Commonwealth funding under the Aged Care Act.~~

109. Subsection 38-25(1) specifically addresses the GST treatment of services supplied by a registered provider in an approved residential care home~~an approved provider, in a residential care facility~~ that qualifies for government funding from the Commonwealth under the Aged Care Act.

110. Subsection 38-25(2) treats as GST-free the supply to aged or disabled people of services of a kind covered by a provision of Division 8 of the aged care service list, whereof services of a kind covered by Schedule 1 to the Quality of Care Principles to aged or disabled people when the supplier receives government funding from the Commonwealth, a state, or a territory in connection with the supply. Unlike subsection 38-25(1), the scope of subsection 38-25(2) extends to government funded programs outside the ambit the Aged Care Act, and specifically applies to disabled people.

111. In contrast to subsections 38-25(1) and 38-25(2), subsection 38-25(3) allows equivalent care services to be supplied GST-free to aged or disabled people through non-government funded residential care facilities. Subsection 38-25(3A) impacts upon the application of subsection 38-25(3) such that, in specified circumstances, residential care services can also be supplied GST-free to residents of serviced apartments in privately funded retirement villages.

112. Subsection 38-25(3) ensures that people in like care situations who are living in privately funded residential care facilities are treated similarly in their access to GST-free services as aged or disabled people living in approved residential care homes receiving Commonwealth funded residential ~~aged care~~ services under the Aged Care Act.²³

²³ See the Explanatory Statement to the Minister's Determination.

Approach adopted in this explanation

113. The GST treatment of services and accommodation supplied to residents of privately funded residential care facilities and residents of serviced apartments in retirement villages is explained in two main parts:

- PART A – Services
 - the setting in which the services are provided
 - when the ‘residential setting’ requirement in paragraph 38-25(3)(a) is satisfied; and
 - with respect to serviced apartments in retirement villages, how the construction of paragraph 38-25(3)(a) is impacted by subsections 38-25(3A), 38-25(3B) and 38-25(3C);
 - the nature of the services supplied and how they are supplied when services satisfy paragraphs 38-25(3)(b) and 38-25(3)(c), including the requirements specified in the Minister’s Determination made for the purposes of paragraph 38-25(3)(b).
- PART B – Accommodation
 - when a supply of accommodation is GST-free under subsection 38-25(4); and
 - when a supply of a serviced apartment in a retirement village is GST-free under subsection 38-25(4A).

PART A – Services

114. A supply of services to a resident living in a privately funded residential facility is GST-free under subsection 38-25(3) if the following criteria are satisfied:

- the services are provided to one or more aged or disabled people in a residential setting (paragraph 38-25(3)(a)); and
- the Minister has determined in writing that the services are of a kind covered by [a provision of the aged care service list specified in regulations made for the purposes of paragraph 38-25\(3\)\(b\)](#) ~~the Quality of Care Principles~~ (paragraph 38-25(3)(b)); and
- the services include, and are only provided to people who require, [the care services set out in a provision of the aged care service list specified in regulations made for the purposes of paragraph 38-25\(3\)\(c\)](#) ~~item 2.4 services or item 3.8 services~~ (paragraph 38-25(3)(c)).

When are services provided in a ‘residential setting’?

115. A supply of services to an aged or disabled person can only be a GST-free supply of residential care under subsection 38-25(3) if they are provided in a ‘residential setting’.

116. The expression ‘residential setting’ is not defined in the GST Act. The meaning of ‘residential setting’, as it appears in paragraph 38-25(3)(a), is informed by the context of subsection 38-25(3) and, more specifically, the context of Division 38.

~~Subsection 38-25(3A) which is specifically concerned with residents of serviced apartments in a retirement village also impacts upon the application of subsection 38-25(3); and must be considered when determining whether or not services are provided in a ‘residential setting’ for the purposes of paragraph 38-25(3)(a).~~

116A. Subsection 38-25(3A), which is specifically concerned with residents of serviced apartments in a retirement village, also impacts upon the application of subsection 38-25(3), and must be considered when determining whether or not services are provided in a 'residential setting' for the purposes of paragraph 38-25(3)(a).

116B. Subsection 38-25(3A) is significant because it identifies the circumstances in which services provided to residents of serviced apartments in retirement villages are taken, for the purposes of paragraph 38-25(3)(a), to be provided in a residential setting. The use of the expression 'if, and only if' in that provision supports the view that paragraph 38-25(3)(a) is not concerned with every setting in which a person resides. Rather, the expression 'residential setting' must be read in its statutory context, including the specific rule enacted for retirement villages.

117. The structure of Division 38 of the GST Act recognises the aged care programs and types of care provided for undertypes of care that are separately provided for and defined in the Aged Care Act. In particular, section 38-25 is concerned with residential care, section 38-30 is concerned with home care, and section 38-35 is concerned with specialist aged care programs~~flexible care~~.

118. Funded aged care services provided under the Aged Care Act are categorised in the aged care service list into the service groups of home support, assistive technology, home modifications (collectively referred to as home care in this Ruling) and residential care~~In the Aged Care Act, residential care is defined to include personal care and/or nursing care provided to a person in a residential facility, and specifically excludes care provided to a person in their private home, and care provided in a hospital or a psychiatric facility.~~²⁴ Funded aged care services can be delivered in either:

- an approved residential care home; or
- a home or community setting.^{24A}

118A. Under that framework, residential care is delivered by registered providers under the residential care registration category and corresponds to the residential care service group in Division 8 of the aged care service list.^{24B} Services within the residential care service group must be delivered in a residential care home.^{24C}

118B. In contrast, home care is delivered by registered providers under provider registration categories other than the residential care category and corresponds to the service groups in Divisions 2 to 4 of the aged care service list.^{24D} Services within those home care service groups must be delivered in a home or community setting.^{24E}

119. ~~[Omitted.] Home care is defined in the Aged Care Act as a package of personal care services and other personal assistance provided to a person who is not being provided with residential care. Home care services provide assistance to people to enable them to~~

²⁴ Subsection 8(3) of the Aged Care Act. Funded aged care services may also be delivered through specialist aged care programs (see paragraph 9(2)(h) of the Aged Care Act). Section 41-3 of the Aged Care Act 1997, paragraph 5.17 of the Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998.

^{24A} Subsection 10(1) of the Aged Care Act.

^{24B} Paragraph 11(3)(a) of the Aged Care Act and Division 8 of Part 3 of Chapter 1 of the Aged Care Rules 2025.

^{24C} Section 8-160 of the Aged Care Rules 2025. 'Residential care home' is defined in subsections 10(2) to (4) of the Aged Care Act.

^{24D} Subsections 8(3) and 11(3) of the Aged Care Act and Divisions 2 to 4 of Part 3 of Chapter 1 of the Aged Care Rules 2025.

^{24E} Sections 8-95, 8-115, and 8-130 of the Aged Care Rules 2025. The expression 'home or community setting' is defined broadly in subsection 10(6) of the Aged Care Act and may, in some circumstances, include a residential care home. However, this does not affect the operation of paragraph 38-25(3)(a) of the GST Act, which is concerned with services provided in a 'residential setting' in the context of residential care.

²⁵ [Omitted.] Section 45-3 of the Aged Care Act 1997.

~~stay in their own homes rather than having to move into a nursing home. Flexible care is care that addresses the needs of a care recipient in an alternative way to residential or home care.~~

120. ~~Consistent with that framework, Considering the nature of residential care and home care, as reflected by their respective definitions in the Aged Care Act, it is considered that~~ section 38-30 about home care addresses the GST treatment of personal care and assistance provided to a person in their own private home or in a community setting. Whereas, section 38-25 about residential care is concerned with the GST treatment of personal care and nursing care provided to residents in both government and privately funded residential care facilities, rather than in a person's own private home.

121. The reference to the services, or services *of a kind*, covered by a provision of Division 8 of the aged care service list, listed in Schedule 1 to the Quality of Care Principles, in each of the subsections of section 38-25, also provides contextual support for the view that the application of section 38-25, including subsection 38-25(3), is confined to a supply of services in circumstances and in a setting equivalent to those described in the definition of a residential care home in the Aged Care Act~~residential care in the Aged Care Act. That is, a place where individuals who have a continuing need for aged care services reside.~~

122. The considerations set out at paragraphs 115 to 121 of this Ruling support the view that the meaning of 'residential setting' in paragraph 38-25(3)(a) is intended to be limited to residential care facilities where care services are provided, and does not take on its ordinary meaning to include any setting in which a person resides, including their private home. This is subject to the application of subsection 38-25(3A) which is discussed at paragraphs 15 to 71, and paragraphs 126 to 163 of this Ruling.

123. When considered in conjunction with the meaning of residential care home in subsections 10(2) to (4) of the Aged Care Act, which excludes a person's private home and facilities declared to be hospitals^{27A}~~residential care in the Aged Care Act which excludes care provided in a person's private home and care provided in a hospital or psychiatric facility~~, these contextual considerations also indicate that 'residential setting' in paragraph 38-25(3)(a) is intended to exclude settings in which care may be provided but are medical in nature, such as a hospital or a psychiatric facility.

124. There is a variety of facilities that provide care and accommodation for aged or disabled residents that are not government funded, such as nursing homes and aged care hostels. Facilities that provide care services to aged or disabled people and that have the following characteristics are ~~ordinarily considered to be~~ a residential setting, rather than ~~being~~ a person's private home:

- residents do not have a legal interest in the premises~~property~~;
- residents can be moved at the operator's discretion within the premises under certain circumstances;
- the premises are marketed and held out to the public as a place for the provision of care and accommodation, rather than just accommodation; and
- residents have limited rights compared to residents who lease or own their premises.

²⁶ ~~[Omitted.] Paragraph 5.22 of the Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998.~~

²⁷ ~~[Omitted.] Section 49-3 of the Aged Care Act 1997.~~

^{27A} Paragraph 10(4)(c) of the Aged Care Act excludes facilities declared to be hospitals under subsection 121-5(6) of the Private Health Insurance Act 2007, subject to the exception in paragraph 10(3)(a) for a place within, or co-located with, a hospital that is covered by an agreement with the Commonwealth to deliver aged care services alongside health services as a part of an integrated service arrangement.

125. Determining whether a resident is residing in a residential setting, as opposed to their own home, requires a weighing up of all of the relevant facts, circumstances and objective evidence. Paragraphs 8 to 14 and paragraph 124 of this Ruling set out some factors which indicate that a resident is residing in a residential setting rather than their own home. However, any one factor, in its own right, is not determinative.

Serviced apartments in a retirement village

126. An independent living unit or serviced apartment in a retirement village is not ordinarily considered to be a residential setting for the purposes of subsection 38-25(3) because:

- residents do not have the status of a guest or lodger; instead they have a proprietary interest in the [premisesproperty](#);
- residents have an exclusive right of occupancy of a specific unit or apartment;
- a resident has the right to refuse entry to others and the right to invite guests to stay overnight without seeking approval;
- residents are required to pay considerable entry contributions to secure their residency in a specific apartment; and
- residents may be entitled to share in the growth in the capital value of their unit or apartment.

127. Services provided to a resident of an independent living unit or serviced apartment in a retirement village would not usually be considered to be provided in a 'residential setting' for the purposes of paragraph 38-25(3)(a). However, subsection 38-25(3A) expands the application of paragraph 38-25(3)(a) with respect to 'retirement villages'.

128. Subsection 38-25(3A) specifically allows for services provided to a resident of a 'retirement village' to be taken, for the purposes of paragraph 38-25(3)(a), to be provided in a residential setting if, **and only if**:

- he or she is a resident of a 'serviced apartment' in the retirement village (paragraph 38-25(3A)(a)); and
- there is in force a written agreement under which the operator of the retirement village provides daily meals and heavy laundry services to all of the residents of the apartment (paragraph 38-25(3A)(b)).

129. For services to be taken to be provided in a 'residential setting' under subsection 38-25(3A), the services must be supplied to a resident of a 'serviced apartment' in a 'retirement village'. The terms 'retirement village' and 'serviced apartment' are both defined in section 195-1.

130. The words 'if and only if' as they are used in subsection 38-25(3A) [signifies an imperative which](#) means services provided to a resident of a retirement village, as defined in section 195-1, are not provided in a 'residential setting', for the purposes of paragraph 38-25(3)(a), unless the resident resides in a 'serviced apartment' in the 'retirement village'. That is, services supplied to a resident of a retirement village are only provided in a residential setting if the resident resides in a serviced apartment in the retirement village. For example, services provided to residents of independent living units in the 'retirement village' that are not serviced apartments are not taken to be provided in a 'residential setting'.

Retirement village

131. A retirement village is defined in section 195-1 as residential premises²⁸ in which:

- accommodation is intended for people who are at least 55 years old, or who are a certain age that is more than 55 years (paragraph (b)); and
- there are communal facilities for use by residents of the premises (paragraph (c)).

However, a retirement village is not:

- ~~an approved residential care home premises used, or intended to be used, for the provision of residential care (within the meaning of the Aged Care Act 1997) by an approved provider~~ as defined in that Act (paragraph (d)); or
- commercial residential premises (paragraph (e)).

132. Retirement villages provide living accommodation in communal or semi-communal facilities and, based upon their physical characteristics, are residential premises to be used predominantly for residential accommodation. They therefore satisfy paragraph (a) of the definition of retirement village in section 195-1.

133. Whether accommodation in the residential premises is intended for persons at least 55 years of age, or a specified age greater than 55, as required by paragraph (b) of the definition of retirement village in section 195-1, is evidenced by the entry requirements of a particular complex.

134. The views and explanation set out in Goods and Services Tax Ruling GSTR 2007/1 *Goods and services tax: when retirement village premises include communal facilities for use by the residents of the premises* must be considered when determining whether a particular retirement village premises includes communal facilities as required by paragraph (c) of the definition of retirement village in section 195-1. As set out at paragraph 19 of GSTR 2007/1, retirement village residential premises include communal facilities when:

- the communal facilities are physical; and
- the communal facilities are within, attached or connected to the residential building (or buildings), or constructed on the surrounding land that actually or substantially contributes to the enjoyment of the building (or buildings) or to the fulfilment of its purpose as a residence (although communal facilities need not themselves be residential premises).

135. Communal facilities include the following types of facilities located within a retirement village complex: a library, a dining room, a recreation room, a chapel, a gymnasium, and outdoor recreational and leisure facilities such as a tennis court, a swimming pool or a barbeque area.²⁹

136. In a retirement village context, communal facilities do not include reception areas, pathways, gardens, driveways and landscaping. Incidental use of such facilities for a group activity would not qualify them as communal facilities. Facilities that are for the resident's own use in their individual units or apartments, such as a television antenna, internet connections or call button facilities are also not communal facilities.³⁰

137. ~~The definition of 'retirement village' in section 195-1 excludes an approved residential care home and commercial residential premises (see paragraphs 22 to 22B of this Ruling). Paragraph (d) of the definition of retirement village in section 195-1 excludes a~~

²⁸ Paragraph (a) of the definition of retirement village in section 195-1.

²⁹ See paragraph 23 of GSTR 2007/1.

³⁰ See paragraphs 25 and 26 of GSTR 2007/1.

~~facility that is used, or intended to be used, to provide residential care as defined in section 41-3 of the Aged Care Act by an approved provider. This includes residential care facilities that are managed by an approved provider who supplies care services to the residents as a lessee of the premises under a lease granted by the owner of the premises.~~

138. ~~[Omitted.] Premises that are commercial residential premises are also excluded from the meaning of retirement village by paragraph (e) of the definition of retirement village in section 195-1. A retirement village where the occupants of the retirement village do not have the status of a guest is not commercial residential premises. Occupants of a retirement village do not have the status of a guest where they are granted overall control over at least part of the premises (for example, an independent living unit or serviced apartment) including the right to restrict entry by the management of the retirement village to that part of the premises.~~

Serviced apartment

139. An apartment is a 'serviced apartment' in relation to a retirement village if:

- ~~the apartment is designed to be occupied by aged residents who require the services set out in a provision of the aged care service list specified in regulations made for the purposes of paragraph (a) of the definition of serviced apartment in section 195-1; and the apartment is designed to be occupied by aged residents who require either or both of the following:~~
 - ~~—— item 2.1 services;~~
 - ~~—— item 3.8 services [paragraph (a) of the definition of serviced apartment in section 195-1]; and~~
- at least one responsible person is continuously
 - on call to render emergency assistance to the residents of the apartment; and
 - in reasonable proximity to the apartment (paragraph (b) of the definition of serviced apartment in section 195-1); and
- the apartment is part of a single complex of apartments to which the above dot points apply, and is accessible from a common corridor linking the apartment to the other apartments in the complex (paragraph (c) of the definition of serviced apartment in section 195-1); and
- there is in the retirement village a communal dining facility that is available for use by the residents of apartments in the retirement village to which all of the dot points above apply (paragraph (d) of the definition of serviced apartment in section 195-1).

However, a detached house, row house, terrace house, town house or villa unit is not a serviced apartment (section 195-1).

140. The definition of 'serviced apartment' in section 195-1 specifies several physical and other characteristics that an apartment must exhibit in order for it to be a 'serviced apartment' for the purposes of subsection 38-25(3A). An apartment must satisfy all of the requirements specified in the definition of 'serviced apartment' in section 195-1 to be a 'serviced apartment'.

³¹ ~~[Omitted.] The term 'commercial residential premises' is defined in section 195-1 of the GST Act.~~

Physical characteristics of serviced apartments

141. Paragraph (a) of the definition of serviced apartment in section 195-1 requires the apartment to be designed so that it can be occupied by aged residents who require the full range of daily living activities assistance services or nursing services set out in [the provisions of the aged care service list specified in subsection 38-25.01\(2\) of the GST Regulations](#)~~Schedule 1 of the Quality of Care Principles~~, even if an individual resident does not require all of the services.^{31A}

142. The Explanatory Memorandum to the Tax Laws Amendment (Retirement Villages) Bill 2004 (Explanatory Memorandum) that amended the GST legislation to incorporate section 38-25(3A), and the definition of 'serviced apartment' in section 195-1, distinguish serviced apartments in a retirement village from other categories of accommodation commonly provided in retirement villages; such as, independent living units.

143. Paragraph 1.25 of the Explanatory Memorandum explains that independent living units are designed for occupants who are capable of living independently without the need for care services or other regular services including the provision of [daily](#) meals and heavy laundry by the retirement village operators. Whereas paragraph 1.26 of the Explanatory Memorandum explains that serviced apartments are designed for aged residents with a level of frailty, disability or medical condition that requires they receive a range of services to enable them to continue to reside in the retirement village.

144. Serviced apartments may share many features and characteristics with independent living units. Any one factor, on its own, may not identify an apartment as one designed for residents that require a broad range of daily living activities assistance services and nursing services, as required by paragraph (a) of the definition of serviced apartment in section 195-1. However, there are some characteristics which are consistent with the apartments being designed for that purpose.

145. For example, serviced apartments are generally smaller in physical layout than independent living units, being either a one room studio style apartment, or an apartment comprising one or two bedrooms with a separate living area. Serviced apartments may not be designed for self-catering. For example, they may only contain limited cooking facilities, such as a small kitchenette with a microwave and bar fridge. However, the absence of any one or more of these features, on its own, will not preclude an apartment from being a serviced apartment that is designed for persons who require daily living assistance and nursing services.

146. Physical characteristics such as the presence of a laundry, carport or garage, kitchen with cooking facilities, and a private garden or courtyard may be indicative of an apartment that is designed for persons who are capable of living independently and who do not require daily living [activities](#) assistance [services](#) and nursing services. However, the presence of one or more of these features, on its own, will not preclude an apartment from being a serviced apartment that is designed for persons who require daily living [activities](#) assistance [services](#) or nursing services.

147. Under paragraph (c) of the definition of serviced apartment in section 195-1, an apartment in a retirement village is not a serviced apartment unless it is part of a single complex of apartments and is accessible from a common corridor linking it to the other apartments in the complex. As explained in paragraph 1.31 of the Explanatory Memorandum, this requirement reflects the fact that serviced apartment accommodation is generally higher density accommodation than independent living units.

^{31A} [Section 195-1.03 of the GST Regulations provides that, for the purposes of paragraph \(a\) of the definition of serviced apartment in section 195-1, the provisions of the aged care service list specified in subsection 38-25.01\(2\) are specified.](#)

³² [Omitted.]

148. The term ‘corridor’ is not defined in the GST Act. Paragraph (c) of the definition of serviced apartment in section 195-1 refers to a ‘single complex of apartments’ and ‘a common corridor linking an apartment to the other apartments in the complex’. The phrase ‘single complex of apartments’ draws upon the ordinary meaning of ‘apartments’ which refers to rooms or units located within a single building. The composite expression ‘single complex of apartments’ is read as a single building in which each apartment shares a common wall or walls with other apartments and does not include a single freestanding apartment. In this context, the ordinary meaning of ‘corridor’ relevantly includes a passage into which several rooms or apartments open,³³ or a long passage from which doors lead into rooms.³⁴

149. Section 195-1 excludes dwellings such as detached houses, row houses, terrace houses, townhouses and villa units from being serviced apartments for the purposes of subsection 38-25(3A). This exclusion is also reflective of the higher density arrangements for serviced apartments.

150. Having regard to the matters discussed in paragraphs 147 to 148 of this Ruling, a common corridor referred to in paragraph (c) of the definition of serviced apartment in section 195-1 is an internal or external passageway of a single complex that connects an apartment to other apartments in that single complex. A common corridor, in the context of paragraph (c) of the definition of serviced apartment in section 195-1, may include a covered passageway which provides protection from the elements, is lit, and is wide enough to allow passage of mobility assistance devices such as walkers, scooters and wheelchairs. A covered passageway, either alone, or in combination with an internal passageway, must provide access to and between all apartments in the single complex. It does not include a covered or an uncovered passageway that connects a freestanding apartment to another freestanding apartment. It also does not include pathways and roads, including pathways and roads connecting a single complex with another single complex of apartments, within the retirement village.

151. One retirement village may comprise more than one single complex. Paragraph (c) of the definition of serviced apartment in section 195-1, however, only requires the apartments in a single complex to be accessible from a common corridor and does not require each single complex, when there is more than one single complex in the retirement village, to also be connected by a common corridor.

Other characteristics of serviced apartments

152. The physical characteristics of an apartment, on their own, are not determinative of whether an apartment is a serviced apartment in a retirement village for the purposes of section 38-25(3A). The definition of serviced apartments in section 195-1 also requires that:

- at least one responsible person is continuously on call to provide emergency assistance to the residents of the apartment, and is in reasonable proximity to the apartment (paragraph (b)); and
- there is a communal dining facility in the retirement village that is available for use by the residents (paragraph (d)).

153. The requirement specified in paragraph (b) of the definition of serviced apartment in section 195-1 requires a person to be available on-site to provide first aid or arrange other mobility, nursing or medical assistance to residents of serviced apartments. This

³³ Pan Macmillan Australia (2026) *Macquarie Dictionary online*, www.macquariedictionary.com.au, accessed 20 August 2026.

³⁴ *The Concise Oxford English Dictionary*, Twelfth edition, Oxford University Press, 2008. Oxford Reference Online.

requirement is consistent with the fact that serviced apartments are designed for residents who require daily living activities assistance services or nursing services.

154. The provision of a personal medical emergency call device that alerts an off-site external service provider of a potential medical emergency when activated by the resident is not sufficient to satisfy paragraph (b) of the definition of serviced apartment in section 195-1. However, an emergency call device which alerts at least one responsible person who is on-site within the precincts of the retirement village, but who may be an external service provider, is sufficient to satisfy this requirement. Paragraph (b) of the definition of serviced apartment in section 195-1 is also met where at least one responsible person is shared between two adjacent retirement villages and such a person is on-site at one of those retirement villages at any time.

155. As reflected by paragraph (d) of the definition of 'serviced apartment' in section 195-1, residents of the apartments must also have access to a communal dining facility that is available for use by them, and is located within the retirement village in which the apartment is situated. The communal dining facility does not have to be connected to the complex of serviced apartments.

156. [Omitted.]

157. [Omitted.]

158. [Omitted.]

159. [Omitted.]

160. [Omitted.]

161. [Omitted.]

162. [Omitted.]

163. [Omitted.]

Subsections 38-25(3B) and 38-25(3C) – Minister's Determination about the level of services required by residents of 'serviced apartments'

164. Subsection 38-25(3B) allows the Minister to determine, in writing, the level of services that a resident of a serviced apartment in a retirement village must require in order for those services to be taken to be provided in a residential setting for the purposes of paragraph 38-25(3)(a). Subsection 38-25(3B) also allows the Minister to determine, in writing, the way in which the level of care services required by residents of serviced apartments in retirement villages is to be assessed.

165. At the time of issue of this Ruling, [and latest addendum](#), the Minister has not made a Determination under subsection 38-25(3B). In the absence of a determination made by the Minister under subsection 38-25(3B), services provided to a resident of a 'serviced apartment' in a 'retirement village' are GST-free if they satisfy the requirements of paragraph 38-25(3A)(b) and subsection 38-25(3). In the absence of a subsection 38-25(3B) determination, subsection 38-25(3C) and paragraph 38-25(4A)(c) have no practical application.

³⁵ [Omitted.]

³⁶ [Omitted.]

³⁷ [Omitted.]

³⁸ [Omitted.]

³⁹ [Omitted.]

⁴⁰ [Omitted.]

⁴¹ [Omitted.]

⁴² [Omitted.]

When are services that are being provided in a ‘residential setting’ GST-free supplies of residential care?

166. Once it is established that services are being provided to one or more aged or disabled people in a residential setting, the supply of these services is GST-free if they satisfy the requirements specified in paragraphs 38-25(3)(b) and 38-25(3)(c).

167. Paragraph 38-25(3)(b) requires that the services must be determined by the Aged Care Minister⁴³ to be of a kind covered by a provision of the aged care service list specified in regulations made for the purposes of that paragraph~~Schedule 1 to the Quality of Care Principles~~.⁴⁴ The determination that the Minister has made for the purposes of paragraph 38-25(3)(b) is the *A New Tax System (Goods and Services Tax) (GST-free Supply – Residential Care – Non-government Funded Supplier) Determination* ~~2025~~²⁰¹⁵ (Minister’s Determination).

168. Section 6 in the Minister’s Determination refers to all the types of services that are able to be provided GST-free to eligible residents. The services are specified in Division 8 of the aged care service list~~listed in Schedule 1 to the Quality of Care Principles under the Aged Care Act~~, and reflect the services which are GST-free to residents of Commonwealth funded residential aged care services. However, the Minister’s Determination also specifies particular circumstances in which those services must be supplied for them to be GST-free (see paragraphs 169 to 178 of this Ruling).

Services are provided to residents who require daily living activities assistance services or nursing services~~item 2.1 or item 3.8 services~~ and who have a continuing need for those services

169. Paragraph 38-25(3)(c) provides that the services must be provided only to a care recipient who requires daily living activities assistance services or nursing services.^{44A}~~item 2.1 or item 3.8 services~~. This requirement is also reinforced in the Minister’s Determination which specifies particular circumstances in which the services must be supplied for them to be GST-free. Paragraph ~~6(3)(a)~~^{6(4)(a)} of the Minister’s Determination requires a care recipient to have a continuing need for daily living activities assistance services or nursing services.~~item 2.1 services or item 3.8 services~~.

170. It is a question of fact whether a resident requires, and has a continuing need for, daily living activities assistance services or nursing services.~~item 2.1 services or item 3.8 services~~. It is not necessary for the resident to require, and to have a continuing need, for all of the daily living activities assistance services or nursing services.~~under item 2.1 or 3.8 services~~. However, a resident must have a currently existing need for the services that is ongoing, rather than occasional, isolated or sporadic.

171. In determining whether this requirement is satisfied, the Commissioner will consider objective evidence of a resident’s requirement and continuing need for daily living activities assistance services and nursing services.~~item 2.1 or item 3.8 services~~. This objective evidence may include one or more of the following factors:

- a report of an assessment of a resident’s care requirements by a registered medical practitioner;

⁴³ The Aged Care Minister is defined in section 195-1 ~~of the GST Act~~ to mean the Minister administering the Aged Care Act.

⁴⁴ ~~[Omitted.] The Quality of Care Principles are defined in section 195-1 of the GST Act to mean the principles made under section 96-1 of the Aged Care Act 1997.~~

^{44A} Paragraph 38-25(3)(c) and subsection 38-25.01(2) of the GST Regulations.

⁴⁵ ~~[Omitted.] Refer to subparagraph 38-25(3)(c)(i) of the GST Act.~~

⁴⁶ ~~[Omitted.] Refer to subparagraph 38-25(3)(c)(ii) of the GST Act.~~

- a report of an assessment of a resident's care requirements by a registered nurse, a registered physiotherapist, or a registered occupational therapist; or
- a report of an assessment of a resident's care requirements by more than one person, including at least one registered health professional.

A package of services and accommodation under a written agreement

172. For services to be able to be provided GST-free under subsection 38-25(3), paragraph ~~6(3)(b)6(4)(b)~~ of the Minister's Determination also requires the services to be supplied under a written agreement as a package made up of:

- ~~daily living activities assistance services or nursing services; daily living assistance (item 2.1 services) or nursing services (item 3.8 services) of Schedule 1 to the Quality of Care Principles~~
- other services mentioned in Division 8 of the aged care service list ~~Schedule 1 to the Quality of Care Principles~~ that are needed by the resident; and
- accommodation.

173. Paragraph ~~6(3)(c)6(4)(e)~~ of the Minister's Determination also requires that the charges for both the services and the accommodation be payable to the same entity.

174. An amendment to the GST legislation⁴⁷ alters the way in which paragraphs ~~6(3)(b)6(4)(b)~~ and ~~6(3)(c)6(4)(e)~~ of the Minister's Determination apply to residents of 'serviced apartments' in 'retirement villages', in specified circumstances. The requirement that accommodation be included in a package of services, and the requirement that charges for the services and accommodation be payable to the same entity, do not apply where the serviced apartment is supplied to the resident in the circumstances contemplated by subsection 38-25(4A)⁴⁸ (that is, by way of lease, hire or licence; or by sale; or by supply of certain securities).

175. However, to satisfy paragraph 38-25(3)(b) and the requirements of the Minister's Determination, the services supplied to a resident of a 'serviced apartment' in a 'retirement village' are required to be supplied under a written agreement in accordance with paragraph ~~6(3)(b)6(4)(b)~~ of the Minister's Determination and all of the charges for the package of services must be payable to the same entity as required by paragraph ~~6(3)(c)6(4)(e)~~ of the Minister's Determination.

176. Where the supplier, as principal, contracts with a third party for the provision of some items in the package, the requirement that the package be supplied by the one entity is met when the third party is the supplier's agent, or a subcontractor of the supplier, and the charges are payable to the principal.⁴⁹

177. However, there are circumstances where the supplier merely facilitates or arranges or both the provision of some part of the package by a third party, and the third party is making supplies in its own right directly to the care recipient. In these cases, a separate package of supplies is made by each entity, and neither of the suppliers makes a GST-free supply of residential care under subsection 38-25(3).

178. The written agreement required under paragraph ~~6(3)(b)6(4)(b)~~ of the Minister's Determination must stipulate the specific package of services that will be provided to the

⁴⁷ See item 18 of Schedule 1 to *Tax Laws Amendment (Retirement Villages) Act 2004*.

⁴⁸ The operation of subsection 38-25(4A) is discussed at paragraphs 99 to 103 and paragraphs 187 to 190 of this Ruling.

⁴⁹ Refer to GSTR 2000/37.

resident, and those services must include some [daily living activities assistance services or nursing services, item 2.1 services or item 3.8 services](#). The supplier must be obligated to supply the particular services set out in the agreement. [The resident must have a legal right to have services of this kind provided by the operator.](#)

PART B – Accommodation

When is accommodation in a privately funded nursing home or aged care hostel GST-free?

179. Under subsection 38-25(4)⁵⁰, a supply of accommodation is GST-free if it is made to a person *in the course of* making a supply to the person that is GST-free under subsection 38-25(1), 38-25(2) or 38-25(3). Subsection 38-25(4) only has application if services that are GST-free under subsections 38-25(1), 38-25(2) or 38-25(3) are being supplied.

180. In *Hatzimanolis v ANI Corporation Ltd* [1992] HCA 21, the High Court considered the meaning of ‘in the course of’ in a workers compensation context. It was held that in determining whether an incident has occurred in the course of a person’s employment, regard must be had to the general nature, terms and circumstances of the employment.⁵²

181. Similarly, the general nature, terms and circumstances of a supply of accommodation must be considered to determine whether it is supplied in the course of making a supply to a person that is GST-free under subsection 38-25(1), 38-25(2) or 38-25(3). The link between care services and the related accommodation is fundamental to the concept of residential care, and for a supply of accommodation to be GST-free, the care services and the accommodation must be supplied at the same time and the supply of accommodation must facilitate the supply of the care services.

182. In other words, the aged or disabled person has moved into the accommodation in order to receive the care, and the accommodation is provided ‘in the course of’ providing that care. The requirement that accommodation be provided ‘in the course of’ making a supply of services is also reinforced by the requirement in the Minister’s Determination that accommodation be included in a package of services supplied to a resident.⁵³

183. If a resident enters a privately funded facility only for the accommodation without the provision of GST-free residential care services that satisfy the requirements of subsection 38-25(3), the supply of accommodation is not GST-free under subsection 38-25(4).

184. The primary focus of some premises is to provide a type of residential lifestyle accommodation for older persons, rather than to provide residential care services. Some services such as basic first aid and social activities may be provided for some or all of the residents if, and when, they require them. However, the level of services is such that it cannot be said that the accommodation is being supplied ‘in the course of’ supplying those services. In these circumstances, the accommodation does not facilitate a supply of care services required by residents.

185. In some instances, an operator of a private facility may facilitate or arrange the provision of the services that a resident requires through [home care services^{53A}](#) [a home care package](#) offered by an external provider. In these cases, although the external home

⁵⁰ Supplies of accommodation in serviced apartments, in particular circumstances, are addressed in subsection 38-25(4A). See paragraphs 99 to 103 and paragraphs 187 to 190 of this Ruling.

⁵¹ [Omitted.]

⁵² [1992] HCA 21; 173 CLR 473 at [484].

⁵³ See paragraphs 172 to 178 of this Ruling.

^{53A} See paragraph 118 of this Ruling which explains the service groups within the aged care service list that are referred to in this Ruling as home care.

care provider may be making a GST-free supply of home care to the resident under section 38-30, the supply of the resident's accommodation at the facility is not GST-free under subsection 38-25(4). The accommodation is not being supplied in the course of supplying services that are GST-free under subsections 38-25(1), 38-25(2) or 38-25(3).⁵⁴

Temporary absences

186. GST-free services and associated accommodation are considered to continue to be supplied as a package during short, temporary periods of absence. For example, a resident of a residential care facility may be temporarily absent for a period while they are receiving medical treatment in a hospital, or a resident of a serviced apartment in a retirement village may stay overnight at a relative's house.

When is a supply of a serviced apartment in a retirement village GST-free?

187. Subsection 38-25(4A) specifically relates to a supply of serviced apartments in retirement villages.⁵⁵ A supply is GST-free under subsection 38-25(4A) if:

- it is a supply of residential premises, consisting of a serviced apartment in a retirement village, by way of sale, lease, hire, licence, or a supply of a right under a security to participate in a retirement village scheme (a share arrangement) (paragraph 38-25(4A)(b));
- the premises are supplied to a resident, who requires daily living activities assistance services or nursing services ~~daily living activities assistance (item 2.1 services) or nursing services (item 3.8 services)~~ (paragraph 38-25(4A)(a)); and
- the premises are supplied in connection with one or more supplies of care services, or proposed supplies of care services, to the person that are, or will, be GST-free under subsection 38-25(3) (paragraph 38-25(4A)(d)).

188. The term '*... in connection with one or more supplies...*' is used in paragraph 38-25(4A)(d) as opposed to the term '*... in the course of making a supply ...*' used in subsection 38-25(4). This confirms that under subsection 38-25(4A), a one-off supply of a serviced apartment (for example, a sale of real property) in a retirement village can be GST-free. Subsection 38-25(4), on the other hand, requires the supply of accommodation to be made contemporaneously (or continuously) in conjunction with the supply of the care services.

189. The words 'in connection with' have a wide meaning but are to be interpreted in the context of the statute in which they are contained.⁵⁶ Having regard for the context in which subsection 38-25(4A) appears in section 38-25 which is about residential care, and the link between care services and the related accommodation that is fundamental to the concept of residential care, a supply of a serviced apartment in a retirement village, of a kind contemplated by subsection 38-25(4A), is 'in connection with' a GST-free supply of care services under subsection 38-25(3) if it is supplied to a resident in order for them to access and receive those care services.

190. For a supply of a serviced apartment to be GST-free under subsection 38-25(4A), the supply must be made to a person of a kind referred to in paragraph 38-25(3)(c), that is a person who requires daily living activities assistance services or nursing services. ~~item~~

⁵⁴ The requirements specified in paragraphs ~~6(3)(b) and 6(3)(c)6(4)(b) and 6(4)(c)~~ of the Minister's Determination, for the purposes of paragraph 38-25(3)(b) would also not be satisfied in these circumstances.

⁵⁵ 'Serviced apartment' and 'retirement village' are defined terms for the purposes of the GST Act, as discussed at paragraphs 15 to 51 and 126 to 155 of this Ruling.

⁵⁶ *Hatfield, S.B. v Health Insurance Commission* [1987] FCA 462; 15 FCR 487 at [491].

GSTR 2012/3DC

Page status: **draft only – for comment**

Page 40 of 46

~~2.1 or item 3.8 services.~~ The resident must also be receiving, or will receive, care services that are GST-free under subsection 38-25(3). However, the supplier of the services does not need to be the same entity that supplies the serviced apartment to the resident.

Appendix 2 – Alternative views

❶ *This Appendix sets out alternative views and explains why they are not supported by the Commissioner. It does not form part of the proposed binding public ruling.*

Alternative view – meaning of residential setting in paragraph 38-25(3)(a)

191. An alternative view to that set out in this Ruling is that ‘residential setting’ as it appears in paragraph 38-25(3)(a) takes on its ordinary meaning to include any place where a person resides, including their private home. Under this view, ~~personal care and nursing~~ services provided to a resident in a residential care facility or their private home would be supplied in a ‘residential setting’ and would satisfy paragraph 38-25(3)(a).

192. Under this alternative view, it is argued that rather than expanding the application of paragraph 38-25(3)(a), subsection 38-25(3A),⁵⁷ in the context of retirement villages, restricts the otherwise broad meaning of ‘residential setting’ and application of paragraph 38-25(3)(a). That is, attributing the term ‘residential setting’ with its ordinary meaning means that services supplied to all residents of a retirement village are supplied in a residential setting. However, subsection 38-25(3A) restricts the meaning of ‘residential setting’ so that only services supplied to those residents occupying ‘serviced apartments’ in retirement villages satisfy paragraph 38-25(3)(a).

193. For the reasons set out in paragraphs 115 to 125 of this Ruling, the Commissioner considers that the term ‘residential setting’ in the context that it appears in paragraph 38-25(3)(a) does not take on its broadest meaning to include a person’s private home. Also, the view that subsection 38-25(3A) restricts the otherwise broad meaning of ‘residential setting’ in the context of retirement villages is inconsistent with paragraph 1.14 of the Explanatory Memorandum to the Tax Laws Amendment (Retirement Villages) Bill 2004 which states:

This bill does not seek to reduce the existing scope of operation of the term ‘residential setting’ as it appears in existing paragraph 38-25(3)(a).

194. Furthermore, this alternative view would give rise to an outcome that is unlikely to be intended. It would result in residential homes in the wider community, together with aged care homes and hostels, being a ‘residential setting’ for the purposes of section 38-25. Yet, in the context of a retirement village, only a restricted class of residences, that is, serviced apartments, would be a ‘residential setting’ for the purposes of section 38-25.

195. [Omitted.]

⁵⁷ The Commissioner’s views about the application of subsection 38-25(3A) are discussed at paragraphs 15, 52 to 71 and 126 to 130 of this Ruling.

Appendix 4 – Explanation of update

❶ This Appendix is provided as information to help you understand how this draft Consolidation will be finalised only. It is not intended to form part of the final Ruling.

196. This Ruling has been updated to reflect the law following the amendments made to the GST Act by the *Aged Care and Other Legislation Amendment Act 2025*.

197. We intend to further rationalise and simplify the Ruling when finalising this update by removing duplicated content and incorporating relevant explanatory material into the Ruling section.

198. Table 1 of this draft Consolidation outlines paragraphs of the current Explanation section, that, while they have been updated for completeness of explanation of the new law, will be omitted when the draft Consolidation is finalised. This is because they merely duplicate content contained in the Ruling section.

Table 1: Paragraphs of this draft Consolidation to be omitted due to being duplicate content

Section	Paragraphs
Section 38-25 background	107 to 112
Approach adopted in this explanation	113 to 114
When are services provided in a 'residential setting	115 and 124
Serviced apartments in a retirement village	126 to 130
Retirement village	131 to 133 and 137 to 138
Serviced apartment	139, 145, 149 to 152, 154 to 155
When are services that are being provided in a 'residential setting' GST-free supplies of residential care	166 to 168
Services are provided to residents who require daily living activities assistance services or nursing services and who have a continuing need for those services	169 and 171
A package of services and accommodation under a written agreement	173 to 178
When is accommodation in a privately funded nursing home or aged care hostel GST-free?	179, 183 and 185
When is a supply of a serviced apartment in a retirement village GST-free?	187 and 190
Alternative view – meaning of residential setting in paragraph 38-25(3)(a)	191 to 194

GSTR 2012/3DCPage status: **draft only – for comment**

Page 43 of 46

199. Table 2 of this Ruling outlines paragraphs of this draft Consolidation where content will be moved from the Explanation section and added to the binding Ruling section:

Table 2: Paragraphs of this draft Consolidation which will have content moved to the Ruling section

Section	Paragraphs
When are services provided in a 'residential setting'	116 to 118B, 120 to 123 and 125
Retirement village	134 to 136
Serviced apartment	140 to 144, 146 to 148 and 153
Subsections 38-25(3B) and 38-25(3C) – Minister's Determination about the level of services required by residents of 'serviced apartments'	164 to 165
Services are provided to residents who require daily living activities assistance services or nursing services and who have a continuing need for those services	170
A package of services and accommodation under a written agreement	172
When is accommodation in a privately funded nursing home or aged care hostel GST-free?	180 to 182 and 184
Temporary absences	186
When is a supply of a serviced apartment in a retirement village GST-free?	188 to 189

200. As a result of these changes, the final Ruling will not contain a separate Explanation section.

Appendix 5 – Your comments

201. You are invited to provide comments on this draft Consolidation. Forward your comments to the contact officer by the due date.

202. In particular, we invite your comments on the proposal outlined in Appendix 4 to rationalise and simplify the Ruling as part of the finalisation process.

203. A compendium of comments is prepared as part of the finalisation of this Ruling. An edited version of the compendium (with names and identifying information removed) is published to the ATO Legal database on ato.gov.au.

204. Advise the contact officer if you do not wish for your comments to be included in the edited compendium.

Due date:	16 October 2026
Contact:	Rebekah Coote
Email:	Rebekah.coote@ato.gov.au
Phone:	07 3213 8278

References

Previous draft:

GSTR 2011/D5

Related rulings and determinations:

GSTR 2000/37; GSTR 2007/1; GSTR 2011/1

Legislative references:

- Aged Care Act 2024
- Aged Care Act 2024 7
- Aged Care Act 2024 8
- Aged Care Act 2024 284
- Aged Care and Other Legislation Amendment Act 2025
- Aged Care Rules 2025
- Aged Care Rules 2025 Chapter 1, Part 3, Div 8
- Aged Care Rules 2025 8-95
- Aged Care Rules 2025 8-115
- Aged Care Rules 2025 8-130
- Aged Care Rules 2025 8-140
- Aged Care Rules 2025 8-145
- Aged Care Rules 2025 8-150
- Aged Care Rules 2025 8-155
- ANTS(GST)A 1999
- ANTS(GST)A 1999 Div 38
- ANTS(GST)A 1999 Subdiv 38-B
- ANTS(GST)A 1999 38-25
- ANTS(GST)A 1999 38-25(1)
- ANTS(GST)A 1999 38-25(2)
- ANTS(GST)A 1999 38-25(3)
- ANTS(GST)A 1999 38-25(3)(a)
- ANTS(GST)A 1999 38-25(3)(b)
- ANTS(GST)A 1999 38-25(3)(c)
- ANTS(GST)A 1999 38-25(3A)
- ANTS(GST)A 1999 38-25(3A)(a)
- ANTS(GST)A 1999 38-25(3A)(b)
- ANTS(GST)A 1999 38-25(3B)
- ANTS(GST)A 1999 38-25(3C)
- ANTS(GST)A 1999 38-25(4)
- ANTS(GST)A 1999 38-25(4A)
- ANTS(GST)A 1999 38-25(4A)(a)
- ANTS(GST)A 1999 38-25(4A)(b)
- ANTS(GST)A 1999 38-25(4A)(c)
- ANTS(GST)A 1999 38-25(4A)(d)
- ANTS(GST)A 1999 38-25(5)
- ANTS(GST)A 1999 38-30
- ANTS(GST)A 1999 38-35
- ANTS(GST)A 1999 38-38
- ANTS(GST)A 1999 Subdiv 38-G
- ANTS(GST)A 1999 38-260
- ANTS(GST)A 1999 195-1
- ANTS(GST)R 2019 38-25.01

- ANTS(GST)R 2019 38-25.01(1)
- ANTS(GST)R 2019 38-25.01(2)
- ANTS(GST)R 2019 38-25.01(2)(a)
- ANTS(GST)R 2019 38-25.01(2)(b)
- ANTS(GST)R 2019 38-25.01(2)(c)
- ANTS(GST)R 2019 38-25.01(2)(d)
- ANTS(GST)R 2019 38-25.01(2)(e)
- ANTS(GST)R 2019 195-1.03
- Legislation Act 2003 48A
- Tax Laws Amendment (Retirement Villages) Act 2004 Sch 1 Item 18
- Aged Care Legislation Consequential Amendments Regulations 2025
- A New Tax System (Goods and Services Tax) (GST-free Supply - Residential Care - Non-government Funded Supplier) Determination 2025

Case references:

- ENT19 v Minister for Home Affairs [2023] HCA 18; 278 CLR 75; (2023) 410 ALR 1; (2023) 97 ALRJ 509
- Hatfield, S.B. v Health Insurance Commission [1987] FCA 462; 15 FCR 487; (1987) 77 ALR 103
- Hatzimanolis v ANI Corporation Ltd [1992] HCA 21; 173 CLR 473; (1992) 106 ALR 611; (1992) 66 ALJR 365
- SAS Trustee Corporation v Miles [2018] HCA 55; 265 CLR 137; (2018) 361 ALR 206; (2018) 92 ALJR 1064

Other references:

- Explanatory Statement to the A New Tax System (Goods and Services Tax) (GST-free Supply - Residential Care - Non-government Funded Supplier) Determination 2025
- Explanatory Memorandum to the Aged Care and Other Legislation Amendment Bill 2025
- Explanatory Memorandum to the Tax Laws Amendment (Retirement Villages) Bill 2004
- Explanatory Memorandum to the A New Tax System (Goods and Services Tax) Bill 1998
- Pan Macmillan Australia (2026) *Macquarie Dictionary online*, www.macquariedictionary.com.au

GSTR 2012/3

Page status: **draft only – for comment**

Page 46 of 46

ISSN: 2205-6157

ATOlaw topic: Goods and services tax ~~ Health ~~ Other
Goods and services tax ~~ Property ~~ Other

© AUSTRALIAN TAXATION OFFICE FOR THE COMMONWEALTH OF AUSTRALIA

You are free to copy, adapt, modify, transmit and distribute this material as you wish (but not in any way that suggests the ATO or the Commonwealth endorses you or any of your services or products).