


PCG 2022/3EC - Compendium

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Public advice and guidance compendium – PCG 2022/3

1 Relying on this Compendium

This Compendium of comments provides responses to comments received on Draft Practical Compliance Guideline PCG 2022/D3 *Goods and services tax and residential colleges*. It is not a publication that has been approved to allow you to rely on it for any purpose and is not intended to provide you with advice or guidance, nor does it set out the ATO's general administrative practice. Therefore, this Compendium does not provide protection from primary tax, penalties or interest for any taxpayer that purports to rely on any views expressed in it.

Summary of issues raised and responses

Issue number	Issue raised	ATO response
1	<p>Paragraph 20 of the draft Guideline states that where you have a valuation that is between one and 4 years old, you cannot use the benchmarks and must instead use the old valuation indexed by the Consumer Price Index (CPI) or obtain a new independent market valuation.</p> <p>This issue came up in the draft Guideline working group and was identified in the working group compendium as issue 10, which suggested among other things that the old valuation be indexed by the Australian Bureau of Statistics (ABS) Rents Index for the relevant capital city. The ATO agreed to this suggestion. The compendium noted that paragraph 20 in the draft Guideline had been updated to reflect that CPI is adjusted by the ABS Rents Index for the relevant capital city.</p> <p>Paragraph 20 of the draft Guideline does not appear to have been updated to reflect the agreement by the ATO to use the ABS Rents Index for the relevant capital city. In fact, paragraph 20 merely states that the ABS CPI be used for the indexation.</p> <p>There is a footnote 5 reference in paragraph 20 of the draft Guideline that does not appear to provide an indexation method based upon the ABS Rents Index for the relevant capital city – it only provides a link to QC 32370 (<i>GST and</i></p>	<p>Paragraph 20 and footnote 4 of the final Guideline have been amended to address this concern.</p>

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	<p><i>supplies by charities – benchmark market values</i>) on the ATO website, which in turn does not refer specifically (on that page) to an indexation method.</p> <p>Could you update the final Guideline to reflect the outcome of the working group compendium issue 10?</p>	
2	<p>Paragraph 4 of the draft Guideline restricts the application of the Guideline to ‘residential colleges that are endorsed charities’.</p> <p>A defining characteristic of residential colleges in Australia is that they are either university-owned or have a statutory or other formal affiliation with their host university. Arguably, entities that do not meet this test are not residential colleges. Not all residential colleges include ‘residential college’ or ‘college’ in their name. Not all entities that include ‘residential college’ or ‘college’ in their name are residential colleges.</p> <p>Paragraph 5 of the draft Guideline provides a general description of what a ‘residential college’ is.</p> <p>Notwithstanding the provisions of paragraphs 4 and 5 of the draft Guideline, the ATO permits and has permitted various entities that arguably or actually are not residential colleges to (subject to prior written application to and approval from the ATO) elect to adopt the recommendations of the GST Tool for purposes of complying with their ongoing GST obligations.</p> <p>To allow the draft Guideline to go forward to final Guideline status without making provision for these entities that arguably or actually are not residential colleges (but who nevertheless are approved to use the GST Tool), would mean these entities face uncertainty as to whether or not they are entitled to use the final Guideline and on whether or not they will be exposed to the practical GST compliance difficulties described at paragraphs 8, 12 and 13 of the draft Guideline.</p>	<p>Paragraph 4 of the final Guideline has been revised to clarify which entities may rely on the Guideline.</p>

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3	<p>The first dot point of paragraph 44 of the draft Guideline states that residential colleges choosing to use the Guideline must include 'all mandatory charges'.</p> <p>The draft Guideline is silent on whether or under what circumstances mandatory charges are net of scholarships and bursaries.</p> <p>This raises the question of whether a scholarship or bursary forms part of the 'consideration' provided to the college for the supply made to the student, for purposes of the market value tests at paragraph 38-250(1)(b) of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (GST Act).</p> <p>If this issue is not addressed adequately by the final Guideline:</p> <ul style="list-style-type: none"> • it is likely to result in an increase in compliance costs where residential colleges provide scholarships and bursaries • there is a risk some of the residential colleges with large well-funded scholarship programs will end up paying considerably more goods and services tax (GST) than required under GST law, and • it may cause the final Guideline to have a reduced take-up rate among residential colleges. 	<p>Paragraph 44 of the final Guideline has been updated to outline the required approach to determining if a scholarship or bursary is consideration under a contract by reference to published guidance in Goods and Services Tax Ruling GSTR 2012/2 <i>Goods and services tax: financial assistance payments</i>.</p>
4	<p>Paragraph 11 of the draft Guideline states that residential colleges may offer resident students with a choice of periods of accommodation but is silent on whether there is a minimum student contract period to which the Guideline applies. This has the potential to cause confusion among residential colleges as to the correct GST treatment of informal student stays.</p> <p>Informal student stays may differ from the normal contract the student enters into with the residential college in some or all</p>	<p>While acknowledging that this may be an issue, paragraph 11 of the final Guideline recognises that residential colleges may offer a range of different types of contracts and often have to adapt contracts in certain circumstances. The final Guideline is not intended to cover all potential scenarios or all permutations involving resident or non-resident students. We expect residential colleges to exercise reasonable judgment (supported by evidence) to support any position taken to determine the GST reportable on such contracts.</p>

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	<p>of the following respects (aside from the number of contracted weeks):</p> <ul style="list-style-type: none"> • fees payable per week may be different from the normal contract • reduced catering arrangements (for example, 7 meals per week instead of 21 meals per week) • the student may be required to change room or wing (relative to normal contract) • no tertiary residential college courses provided • no religious services provided, and • no automatic right to access host university sporting facilities (for example, a gymnasium). <p>If this issue is not addressed adequately by the final Guideline, for informal student stays it is likely to result in:</p> <ul style="list-style-type: none"> • inconsistent GST treatment of these supplies to students by residential colleges • some residential colleges paying more GST and some paying less GST on these supplies than required under GST law • additional assessment work for ATO field compliance officers conducting GST reviews or audits at residential colleges, and • increased professional representation costs. 	
5	<p>Paragraph 93 of the draft Guideline provides a methodology for claiming input tax credits where there is a partial loss of creditable purpose due to the residential college making input taxed supplies.</p> <p>The methodology requires the residential college to know its 'total turnover'. Neither 'turnover' or 'total turnover' is defined in the draft Guideline.</p>	<p>Updates have been made to paragraph 93 of the final Guideline to reflect our guidance on determining the extent of creditable purpose in Goods and Services Tax Ruling GSTR 2006/4 <i>Goods and services tax: determining the extent of creditable purpose for claiming input tax credits and for making adjustments for changes in extent of creditable purpose</i>.</p>

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	<p>For the avoidance of doubt on what is meant by 'total turnover', would it be possible to have a footnote added noting (words to the effect) that:</p> <p>'Total turnover' is total ordinary income for the calendar year inclusive of interest and investment income and commercial conference trade income. Residential colleges may use budgeted total turnover for the calendar year if actual total turnover for the calendar year is not known at the time of preparing the college's business activity statements (BAS).</p> <p>This definition, if added, would be consistent with QC 50241 (<i>Definitions</i>) on the ATO website and would remove any doubt that residential colleges may have on what to count as 'total turnover'.</p>	
6	<p>The hyperlink to 'GST concessions' at footnote 2 and under the heading 'Other References' of the draft Guideline is broken.</p> <p>In the draft Guideline, there is no hyperlink to <i>Waverley Council and Commissioner of Taxation</i> [2009] AATA 442, notwithstanding this case is provided on the ATO's Legal database. We note that the hyperlink to the Decision impact statement for this case under the end heading 'Other References' works.</p> <p>Footnote 7 of the draft Guideline should refer to both the long-term accommodation benchmark value and the short-term meals benchmark value, given residential colleges often serve meals when they provide informal student stays.</p>	<p>We do not include hyperlinks to cases in the body of Guidelines and other public advice and guidance – these links, where available, are included in the References section at the end of the document.</p> <p>Paragraph 25 and footnote 10 of the final Guideline have been updated.</p>
7	<p>Paragraph 21 of the draft Guideline states that the relevant ATO charity benchmark market values are those that apply at the time the contract between the relevant student and residential college is entered into.</p> <p>Example 1 at paragraph 23 of the draft Guideline refers to the fictional case of St Agatha's residential college where the college obtained an independent market valuation for its student accommodation in January 2025 but not for its</p>	<p>Changes have been made to paragraphs 20 to 24 of the final Guideline to clarify these issues.</p>

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	<p>student meals. The example goes on to state that St Agatha's cannot apply the ATO charity benchmark market values to its student accommodation in the 2025 calendar year and must use that independent market valuation.</p> <p>This raises the issue of how St Agatha's would deal with the situation where material numbers of commencing and returning students entered into contracts for residence in the 2025 academic year, over the months of November and December 2024 – being months prior to the residential college's receipt of the January 2025 valuation.</p> <p>What takes priority in this situation – paragraph 21 or paragraph 23 of the draft Guideline?</p> <p>A final point to note about paragraphs 20 to 24 of the draft Guideline is that a number of residential colleges comprise a mixture of National Rental Affordability Scheme (NRAS) dwellings (subject to NRAS incentives) and student rooms that are not NRAS dwellings. The NRAS dwellings in these cases are generally of far higher standard and market value than the non-NRAS rooms within the same residential college, given NRAS dwellings are each required to have their own ensuite bathroom and self-contained kitchen.</p> <p>There is an unwelcome level of ambiguity in the draft Guideline as to whether or not a residential college with both NRAS rooms and non-NRAS rooms may access the ATO charity benchmark market values for the non-NRAS rooms.</p> <p>After all, paragraph 20 of the draft Guideline uses the words 'if the property is used'.</p> <p>Does the word 'property' at paragraph 20 of the draft Guideline refer solely to a particular building or designated part of the residential college campus that is used only for NRAS rooms or does it in fact refer to the property being the whole of the residential college campus which includes the non-NRAS rooms as well?</p>	

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8	<p>Paragraphs 27 to 40 of the draft Guideline provide guidance on how to account for tertiary residential college courses (TRCCs) when using the Guideline.</p> <p>The draft Guideline sensibly attributes a fixed percentage of 2% of the total mandatory charges to TRCCs for each student contract, provided the minimum requirements at paragraphs 29 to 32 of the draft Guideline (to do with minimum numbers of tutorials and attendances) are satisfied.</p> <p>Paragraph 40 of the draft Guideline contemplates circumstances where the residential college might attribute more than 2% of the total mandatory charges for each student contract as relating to TRCCs and notes the college in these circumstances may be required by the Commissioner to provide evidence to support the percentage attributed.</p> <p>The draft Guideline is silent on the issues of:</p> <ul style="list-style-type: none"> • what evidence is satisfactory to support a TRCC attribution that is above 2% • whether 2-hour or 'double' tutorials can count as 2 tutorials rather than one • whether attendance numbers at a 2-hour or double tutorial can be counted as twice the number of physical attendees • fee-paying non-resident student members of residential colleges and how to account for their attendances at formal tutorials conducted by the residential college, and • inter-college tutorial programs and how to account for student attendance numbers. 	<p>Paragraph 40 of the final Guideline notes that the Commissioner expects a college to provide evidence to support the position adopted if a college chooses to attribute more than 2% to the TRCC in its apportionment of the contract fee.</p> <p>The final Guideline has not prescribed the type of evidence that may be required as the extent and range of evidential material is expected to vary from institution to institution. However, we would consider all reasonable information (such as accounting, budget and administrative records) that a college may wish to use.</p> <p>The final Guideline is not intended to cover all possible outcomes and factual arrangements for TRCCs, therefore the suggestions regarding inter-college tutorials, non-resident students and longer tutorials (which the feedback notes occur infrequently) have not been addressed in the final Guideline. Colleges can self-assess how they approach such matters and support any position taken with evidence.</p>
9	<p>Paragraphs 20, 24, 45 and 48 of the draft Guideline refer to the NRAS and the term 'NRAS market value'.</p> <p>When the draft Guideline refers to 'NRAS market value', it is not clear whether this refers to the NRAS market value</p>	<p>The final Guideline has been updated to confirm that NRAS market value covers rent only.</p>

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	<p>inclusive of utilities and other items or whether it refers to the 'market value rent'. The uncertainty caused by the draft Guideline in this area is best illustrated by a real-world case.</p> <p>The de-identified real-world case provided below and the redacted attachment is from a residential college (referred to as College X) currently in receipt of NRAS incentives.</p> <p><i>College X supplies partially catered NRAS studios on a 44-week contract to students in residence for \$450 per week inclusive of all mandatory charges. The services provided to the student under the contract include 7 meals per week, formal tutorials, pastoral care, room furnishings, sporting services, internet, common rooms, utilities and mentor programs.</i></p> <p><i>College X retained a professional valuer to do the NRAS valuation. The NRAS valuation of College X's supply to the students in the NRAS studios came to \$550 per week broken down as:</i></p> <ul style="list-style-type: none"> • <i>base dwelling \$330</i> • <i>7 meals per week \$84</i> • <i>tutorials (side letter to valuation) \$25, and</i> • <i>other services inclusive of utilities, furniture, common areas, internet and mentoring \$111.</i> 	
10	<p>For the use of a single accommodation benchmark for all room types, I cannot follow the benchmark rate in the draft Guideline example coming from the 2-bedroom other building rate. In any case, we do not seem to have different rates for different room types. The old tool at least attempted to capture all the variations. If the ATO legal advice was that assumptions in the tool were not legal, the same could be argued more strongly that a single benchmark amount was more flawed.</p>	<p>We acknowledge that some residential colleges may see a different overall GST reporting position resulting from an apportionment under the benchmark values when compared to the prior results under the GST Tool.</p> <p>Any changes to the ATO benchmark market values are outside the scope of the final Guideline.</p> <p>We note that the use of the final Guideline is voluntary and, if used, that residential colleges are also able to choose which supplies to apply it to.</p>

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	<p>The use of the short-term meals rates in the benchmark makes life easy for residential colleges to be less than 50% of the market but has unintended consequences elsewhere.</p> <p>The apportionment method between accommodation and meals will always be the same percentage for both accommodation and meals. This effectively means that we need to be below 50% of the market for accommodation if we want to also be below 50% for the food component. Our budget papers document our room rates and catering rates (which are consistently over the various semi catered and fully catered options). If we use those rates from our budget papers then we can be, for example, 72% for accommodation and 44% for meals.</p>	
11	<p>Paragraphs 41 to 43 of the draft Guideline provide for the attribution of 2% of the total mandatory charges for each student contract to religious services, provided the university residential college satisfies certain conditions.</p> <p>There are some issues to do with the way in which religious services are handled by the draft Guideline that have the potential to cause a degree of uncertainty as to outcome, inclusive of:</p> <ul style="list-style-type: none"> • whether the 'one service per week' test applies during non-teaching periods • coverage of religious choirs and bible study groups • religious services provided by other than a minister of religion, and • what evidence is satisfactory to support a religious services attribution above 2%. 	<p>The meaning of 'religious services' is primarily an interpretative issue. The relevant definition of 'religious services' is found in sections 38-220 and 195-1 of the GST Act and expanding on the meaning of that definition is outside the scope of the final Guideline.</p>
12	<p>Paragraph 20 of the draft Guideline states that if the property is used to provide accommodation under the NRAS, the residential college must use the 'NRAS market value'.</p> <p>Is the NRAS valuation that is between one and 4 years old to be indexed using the NRAS valuation indexation</p>	<p>If you use an NRAS valuation, you must use the NRAS valuation indexation methodology. This has been clarified in footnote 5 of the final Guideline.</p>

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	<p>methodology in the NRAS legislation or is it to be indexed using the same methodology that would apply under the Guideline to a non-NRAS valuation? Depending upon the answer to this question, the draft Guideline can give materially different GST outcomes.</p> <p>The NRAS valuation indexation methodology is prescribed in section 5 and paragraph 36(1)(b) of the <i>National Rental Affordability Scheme Regulations 2020</i>. This methodology uses the ABS Rents Index for the relevant capital city but it applies this index on a lagged basis.</p>	
13	<p>Can you confirm that the long-term accommodation tables referred to in the draft Guideline exclude the following items and, as such, if provided these can be included in the accommodation valuation:</p> <ul style="list-style-type: none"> • pastoral care • utilities • internet infrastructure and IT assistance • internet usage • furniture and fittings • communal facilities and business centre • gym membership access • car parking • library services • shuttle bus for residents to local shopping centre? 	<p>The long-term accommodation rates only include rent for accommodation. Many of the other services mentioned need to be assessed on a case-by-case basis by the college as some may be outsourced to third parties (for example, gym and car parking).</p> <p>The final Guideline is not intended to recreate the GST Tool. It is beyond the scope and purpose of this Guideline to cover every eventuality or potential scenario, especially given the variation of services included or excluded from student contracts between institutions.</p>
14	<p>The draft Guideline outlines that where a provider has NRAS dwellings, they are required to utilise the NRAS market value for the subsequent 4 years. Where a provider has accommodation that is similar to the NRAS accommodation, can the provider utilise the NRAS market valuation for the accommodation that is similar but not subject to the NRAS funding?</p>	<p>No. NRAS valuations can only apply to NRAS dwellings for regulatory purposes.</p>

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15	The draft Guideline outlines that providers are required to use the 'Other dwellings 1 bedroom' category in the long-term accommodation tables. Can you clarify in what circumstances providers may utilise the other dwelling types (for example, 1 bedroom, 2 bedrooms, and so on) or are they limited to using the 'Other dwellings 1 bedroom' rate?	The final Guideline does not allow for other accommodation categories to be utilised. However, a residential college remains free to use the final Guideline for some contracts for one group or type of room and seek an independent valuation for contracts for a different group or type of room – see paragraph 17 of the final Guideline.
16	The long-term accommodation tables make reference to some sort of arbitrary radius methodology (for example, within 10 kilometres for some States or specified suburbs for other States). Can you advise if there is a margin of tolerance to the kilometres a provider may use given that many may be just excluded by an immaterial margin from being included in a particular radius?	We can confirm there is no tolerance margin and you must use the relevant benchmark market value appropriate to the correct location if you are using the approach in the final Guideline. If you do not wish to use the benchmark market value appropriate to your location, you may wish to seek an independent valuation which remains open to you after the final Guideline is published.
17	Can you consider undertaking a review on the Victorian, Western Australian and Queensland rates given that student accommodation rates around the vicinity of the universities and colleges appears to be undervalued when compared with similar States?	This is outside the scope of the final Guideline. We adopt a variety of sources of data from both national and state-wide levels which have already been considered in setting the benchmark market values.
18	Given that the sector had to set their rates for 2023 in July 2022, prior to the release of the final Guideline, can the sector utilise the current GST Toolkit in good faith for 2023 and transition into the 2024 year with the process outlined in the final Guideline?	The Residential Colleges GST Tool is being retired from 31 December 2022, except for residential colleges who used it to apportion student contract fees and determine the GST status of the supplies they make to students in the 2023 academic year only.
19	As certain taxpayers deliver full board and accommodation to residents, it has been necessary to calculate liability for GST on the food and drink provided. While this taxpayer is not necessarily the paradigmatic case of a residential college (as, contrary to the first sentence of paragraph 5 of the draft Guidance, it is not attached to or run by any single particular educational institution), it will be apparent that it shares many of the features of such a college as set out in the draft Guideline; it is fully furnished, provides accommodation and meals to residents, has a resident base composed largely of	Paragraph 4 of the final Guideline has been revised to clarify which entities may rely on the Guideline. The Residential Colleges GST Tool is being retired from 31 December 2022, except for residential colleges who used it to apportion student contract fees and determine the GST status of the supplies they make to students in the 2023 academic year only.

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	<p>students and provides pastoral care, sporting and cultural infrastructure and other social services and supports.</p> <p>In previous years, the prior iteration of the Residential Colleges GST Tool was used, which this new tool will supersede. However, it cannot be assumed that this state of affairs will automatically carry over to the new Guidance and associated GST Tools. Would it be appropriate to use and rely upon the new Guidance and GST Tools for tax compliance purposes?</p>	
20	<p>The long-term accommodation benchmarking tables seem to be focused on the broader residential market, not student accommodation specifically. This may distort the 75% market value testing, in particular the concept of comparing the same or similar supply for the purposes of determining the market value. Specifically, it is noted the following that is usually bundled into rents or mandatory charges for student accommodation, which do not appear to be factored into the benchmarks (and were previously considered in the ATO GST Toolkits):</p> <ul style="list-style-type: none"> • utilities (electricity, water, gas, air conditioning) • room features (for example, provided furnished, television, media playing devices, private lounge room) • Wi-Fi • car parking • activities and events (including human resourcing) • gym (whether within the facility or off-site membership) • cleaning (in certain facilities) • types of bathroom facilities (communal, private bathroom) • types of kitchen facilities (full kitchen, kitchenette), and 	<p>We acknowledge that some residential colleges may see a different overall GST reporting position resulting from an apportionment under the benchmark values when compared to the prior results under the GST Tool.</p> <p>Any changes to the ATO benchmark market values are outside the scope of the final Guideline.</p> <p>We note that the use of the final Guideline is voluntary and, if used, that residential colleges are also able to choose which supplies to apply it to.</p> <p>The long-term accommodation rates only include rent for accommodation. Many of the other services mentioned need to be assessed on a case-by-case basis by the college as some may be outsourced to third parties (for example, gym, car parking).</p> <p>The final Guideline is not intended to recreate the GST Tool. It is beyond the scope and purpose of this Guideline to cover every eventuality or potential scenario, especially given the variation of services included or excluded from student contracts between institutions.</p>

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	<ul style="list-style-type: none"> • pastoral care, sporting or cultural infrastructure and general access to common area facilities (entertainment, business centre). <p>We understand the ATO intention to decommission the Toolkits for student accommodation market value testing and introducing the draft Guideline was to simplify the administrative burden on universities and residential colleges of the GST-free market value analysis. However, it is noted that based on initial review, it appears that the GST-free versus input-taxed outcomes are likely to significantly differ under this benchmark approach to the Toolkit testing. Can you clarify if it is the intention to derive similar GST outcomes on market value testing under this approach and, if so, can the final Guideline be updated to explain how suppliers of student accommodation can account for these differences in their market value testing?</p>	
21	<p>a) When obtaining current independent market valuation, do we have to obtain current market valuation by a licensed valuer or can we use the market value guidelines?</p> <p>b) Are the short-meals rates suitable for long-term accommodation?</p> <p>c) Can pastoral care be included (in the same way that TRCC and chaplaincy services are recognised by the 2% deduction)?</p> <p>d) Can we have an example for exclusion of the donations from mandatory charges according to footnote 13 in paragraph 44 of the draft Guideline?</p>	<p>a) A residential college that is obtaining an independent valuation would be expected to use an independent licensed valuer.</p> <p>b) This is beyond the scope of the final Guideline and there is currently no long-term meal rate in the ATO charity benchmark market values.</p> <p>c) This is acknowledged as a potential issue and will be subject to post-implementation review.</p> <p>Consideration could be given to applying a proxy percentage for pastoral care in the same manner as for TRCC and religious services, subject to any required parameters being satisfied, such as a proxy percentage would increase the percentage of the overall contract price apportioned to accommodation in applying the benchmark valued. This may be considered after a post-implementation review.</p> <p>In the interim, residential colleges are not obliged to adopt the approach identified in the final Guideline and are free to seek their own valuation or methodology to allow for pastoral care in apportioning the student contract fee, provided they are able to evidence any position taken if we choose to apply compliance resources to review the reported GST position.</p>

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		d) A donation that is excluded from mandatory charges is a reference to a payment for which the residential college is not making a supply.
22	<p>University residential colleges (URCs) are at least to universities what boarding schools are to secondary education. This lack of understanding has continued through ATO and University Colleges Australia (UCA) discussions and is presently reflected in paragraph 5 of the draft Guideline.</p> <p>By constitution or by formal contractual arrangement with their host university, URCs are bound to only offer accommodation and related services to students and other members of the university community. This is a significant restriction on their ability to operate commercially and a constraint that is not applied to other providers of student accommodation or charities in the local accommodation marketplace. URC trading operations are intrinsically bound to the educational mission of their host university.</p> <p>This association with the host university also has an inherent compliance cost. The reputation of the host university may be adversely affected by misbehaviour by or misadventure to URC student residents. Either by constitution or by formal agreement with the host university, URCs are required to employ essential supervisory staff who remain on call for 24 hours a day, 7 days a week. This is a significant staffing cost that is not imposed on other providers of student accommodation or charities in the local accommodation marketplace.</p> <p>These concerns have dogged communications between UCA and the ATO since GST was introduced in 2001 (refer to clause 4.17 of Professor Hugh Collins' (the then-Head of the Association of Heads of Australian University Colleges and Hall Inc's (now UCA)) response to the ATO in August 2004). It does not appear that this fundamental issue has ever been addressed.</p>	<p>These comments are acknowledged and our purpose in issuing the final Guideline is to assist in reducing the compliance costs for residential colleges.</p> <p>While noting that supervisory staff are required to monitor student behaviour in college-provided accommodation and to protect university reputations, this cannot be addressed in the final Guideline, which is about allowing access to the ATO charity benchmark valuations rather than benchmarks based on local accommodation commercial providers. Again, we note that use of the final Guideline is not mandatory.</p> <p>The challenges of obtaining an accurate and reasonable valuation are acknowledged.</p> <p>In response to specific questions:</p> <p>a) Paragraph 4 of the final Guideline has been revised to clarify which entities may rely on the Guideline.</p> <p>b) The intention of the final Guideline was to extend access to the sector to the ATO charity benchmark market values, not to published commercial rates. Access to other valuations is still available and may be used provided you have a reasonable valuation and such rates are an acceptable comparison (in accordance with the approach of assessing same, similar or other comparable providers in succession).</p> <p>c) Residential assistants are addressed in paragraphs 79 to 86 of the final Guideline. The other services are excluded, as the final Guideline seeks to simplify the approach. However, if a residential college wishes to seek an independent valuation to support its GST reporting of supplies it makes, it can recognise such costs (where appropriate and material) provided it can value these against an appropriate benchmark provider and provide reasonable evidence to support its position.</p>

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	<p>In summary, the key immediate concerns are:</p> <ul style="list-style-type: none"> a) that the overall approach to GST in relation to URCs remains at odds with their role and responsibilities within the Australian education system b) the definition of URCs in paragraph 5 of the draft Guideline is not accurate; a correction has been proposed (refer to Issue 27 of this Compendium) c) the draft Guideline does not permit colleges to use the published rates of comparable commercial providers as a benchmark against which their GST status can be assessed, as was previously permitted by the GST Tool; including this as a documentary approach would better represent real costs in some centres and would be straightforward to include in the final Guideline, and d) the essential services of residential advisers, cleaning and laundry (previously part of the GST Tool) have been excluded from the draft Guideline; that there is no recognition of the costs of these essential services within the draft Guideline is of concern. 	
23	<p>URCs continue to be concerned about the significant liability implications and lack of notice from ATO regarding changes and deadlines.</p> <p>The understanding of your response is that the interim arrangements will remain in place for 2023 with any changes to be incorporated within the 2023 college budget cycle for the 2024 academic year.</p> <p>Another issue pertaining to timing is that the ATO has not committed to a response timeline to URCs' concerns during this consultation period. This is a source of even greater anxiety, given your stated wish that this be active by 1 January 2023.</p>	<p>The Residential Colleges GST Tool is being retired from 31 December 2022, except for residential colleges who used it to apportion student contract fees and determine the GST status of the supplies they make to students in the 2023 academic year only.</p>

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24	<p>The proposed changes via the draft Guideline will result in a significant and material change in GST liability. Most URCs from across the country, encompassing many different fee structures, will be required to pay substantially more GST under the arrangements proposed under the draft Guideline than was required by the GST Tool.</p> <p>The increase range is between \$50,000 and \$600,000 per annum (excluding clawbacks of GST). Only one has reported no increase in GST.</p>	<p>See our comments in response to Issue 20 of this Compendium.</p> <p>We may seek to verify the figures submitted to assist in any post-implementation review of the final Guideline.</p>
25	<p>URCs are deeply concerned that, due to the benchmarking process proposed under the draft Guideline, GST will become applicable to their accommodation income where it was not under the GST Tool. The implication of this is that it will also create a clawback of GST credits previously claimed for past building developments.</p>	<p>The application of Division 129 of the GST Act is a matter of law, noting that the impact of any Division 129 assessments may be spread over several annual adjustment periods.</p> <p>This will vary on a case-by-case basis depending on how residential colleges impacted have previously treated supplies of accommodation historically in the relevant adjustment periods under Division 129 of the GST Act. Generally, there may be a resulting beneficial adjustment if accommodation previously treated as input taxed is now GST-free under the final Guideline.</p>
26	<p>In spite of the draft Guideline permitting full commercial valuation (with the inherent compliance costs), there are few experts available to do this. Given the paucity of past full commercial valuations, there is a high degree of uncertainty for URCs who proceed to adopt this approach, given the mandatory use of the valuation required by the draft Guideline.</p> <p>There is concern that where clarity on compliance with the GST Tool had been obtained from the ATO or legal and financial advisers, the advent of the final Guideline would again require complete fresh assessment and renewed communication by URCs with these third parties.</p>	<p>We note this comment. We also note that it is not mandatory to adopt the approach outlined in the final Guideline.</p>

Issue number	Issue raised	ATO response
27	<p>The first sentence of paragraph 5 of the final Guideline should be changed to reflect the essence of URCs.</p> <p>The present definition is:</p> <p style="padding-left: 40px;">A residential college is an accommodation facility that is generally on, or in close proximity to, a university and is generally fully-furnished.</p> <p>It is proposed that this should be updated to:</p> <p style="padding-left: 40px;">A residential college is an academic educational community linked by constitution or formal contractual arrangement to a host university. To fulfil their responsibilities to their host university, residential colleges are required to employ essential supervisory staff for the university students in their care. Their accommodation facilities are located on, or in close proximity to, a university and are fully-furnished and maintained.</p>	<p>Paragraph 4 of the final Guideline has been revised to clarify which entities may rely on the Guideline.</p>