

# ***Non-commercial activities of charities, cost of supply and market value tests -***

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⚠ This document has changed over time. This is a consolidated version of the ruling which was published on *18 January 2012*



## Charities Consultative Committee

### Non-commercial activities of charities, cost of supply and market value tests

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#### How does an entity make a distinction between 'commercial' and 'non-commercial' activities using the 'cost of supply' and 'market value tests'?

1. An entity may have difficulty in benchmarking the market value of its supplies where it holds an 'exclusive' market share, for example, crisis accommodation.

#### Principle

2. The non-commercial supply rules listed in section 38-250 mean that anything supplied by a charity is GST-free if the payment, or consideration for the supply is either:

- less than 50% of the GST inclusive market value – this does not include accommodation which is less than 75% of the GST inclusive market value, under subsection 38-250(1), or
- less than 75% of the 'cost of supply' under subsection 38-250(2).

3. This means the commercial activities of charities will generally be taxable or input taxed, but the non-commercial supplies by charities will be GST-free. In these situations, it is the supply that is GST-free not the 'supplier'.

4. For more information, refer to section 38-250, in particular:

- subsection 38-250(1)
- subsection 38-250(2).

5. To assist charities in working out the difference between ‘commercial’ and ‘non-commercial activities’, we have developed:

- the ‘Cost of supply’ guidelines for the purposes of applying subsection 38-250(2) – Section A
- the ‘Market value guidelines’ for the purposes of applying subsection 38-250(1) – Section B
- the ‘Benchmark market values’ for the purposes of applying subsection 38-250(1) – Section C.

6. More information can also be found in:

- GST treatment of newsletters, magazines and journals provided supplied by charities – Section D
- Application of the cost of supply test to tickets supplied by organisations in the cultural and performing arts sector – Section E
- Supply of meals in boarding schools, university residential halls or colleges, and other residential educational facilities – Section F
- Supply of accommodation in university residential halls or colleges, and other residential educational facilities – Section G
- The ‘Specific questions and answers’ sections.

7. The ‘Benchmark market values’ provide a basis (benchmark) of the market value of a range of supplies for charities to use as a reference point. Charities making the following supplies can use the Benchmark market values to determine the GST inclusive market values of those supplies:

- supported accommodation and community housing (long term accommodation)
- crisis care (short term and long term accommodation as appropriate)
- retirement villages (long term accommodation)
- other residential housing (long term accommodation), and
- ‘Meals on wheels’, charity ‘soup kitchens’ and other charities that provide or supply meals to the frail, homeless or needy (food guidelines).

### **Working out the payment (consideration) for the supply**

8. In general terms, charities are required (by section 38-250) to compare the consideration it receives for a particular supply against the market value, or cost of the supply.

9. Difficulties may arise if a charity receives a single amount for making a mixed supply that has taxable, GST-free or input taxed components. Each component is a supply in its own right and is separately identifiable. For example, a charity operating a boarding school may charge a single fee covering tuition, accommodation and meals. To be able to correctly apply section 38-250, the fee must be apportioned to establish the part of the fee that relates to each of those supplies.

10. Section 38-250 does not provide a specific method to work out the consideration for the supply. We consider that a charity can use any reasonable method to apportion the consideration received for each supply. Charities must be able to show that their method is reasonable and supportable in their particular circumstances.

11. In the boarding school example, the charity may use the cost of making each component of the mixed supply as a basis for apportioning the consideration. To use this basis, the charity first works out the cost of providing each component. It then works out the consideration for supplying a component by apportioning the consideration received. This is done in the ratio of the cost of that component to the total cost. If a charity worked out that the cost of supplying meals represented 30% of their total cost of making the mixed supply which they received consideration for, the consideration for the supply of meals would be 30% of the total consideration received.

12. We would consider this kind of method acceptable so long as the costs worked out by the charity are reasonable and relevant to the costs and industry practice for any mark up applied.

13. Charities must keep records that explain the method they use to apportion consideration for a mixed supply. For more information, refer to section 382-5 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

## **Section A. Cost of supply guidelines**

### **1. Working out the cost of providing something**

14. A supply of accommodation by a charity is GST-free if it is for consideration that is less than 75% of the cost to the charity of providing the accommodation.

15. If the supply is not a supply of accommodation, the supply is GST-free if it is for consideration that is less than 75% of the consideration the charity provided, or was liable to provide, for acquiring the thing supplied.

16. We consider these two points allow the charity to use the cost of providing the thing supplied when making this calculation.

17. For more information, refer to section 38-250, in particular, paragraph 38-250(2)(b).

### **2. General position**

18. When working out the cost of providing something, a charity should include:

- all direct costs incurred – for example, materials and direct labour, and
- a reasonable apportionment of indirect costs incurred – for example, marketing, administration, office expenses, electricity, telephone and insurance.

### **3. Cost of providing supplies – other than accommodation**

19. For supplies that are not accommodation, charities should only include amounts paid or payable by them in the calculation.

20. This is because subparagraph 38-250(2)(b)(ii) states that it is the ‘consideration the supplier provided or was liable to provide for acquiring the thing supplied’.

21. The consideration the supplier provided or was liable to provide is GST-inclusive.

22. Charities cannot include the following things in the calculation as they do not involve an actual outlay by the charity:

- depreciation of assets, and
- imputed costs for things like volunteer labour, donations, and free rent where the charity has not actually provided any consideration or incurred any real costs.

23. For more information, refer to section 38-250, in particular subparagraph 38-250(2)(b)(ii).

#### **4. Cost of providing accommodation**

24. A supply of accommodation by a charity is GST-free if it is for consideration that is less than 75% of the cost to the charity of providing the accommodation.

25. For supplies of accommodation, only costs incurred in providing the accommodation can be included in the calculation. This does not include imputed costs for things like volunteer labour, donations or free rent where the charity has not actually provided any consideration or payment, or incurred any real costs.

26. If a depreciable asset is used to provide accommodation, the charity should use the depreciation amount for the asset rather than the whole cost of the asset in the calculation. This ensures:

- the cost of the depreciating asset is not attributed to the first supply of the accommodation, and
- the cost of the asset can be attributed to later supplies.

27. Charities must not include both the full cost of an asset and the depreciation amount for the asset in the calculation. Depreciation amounts can only be included for supplies of accommodation.

28. For more information, refer to sections 38-250, in particular subparagraph 38-250(2)(b)(i).

#### **Section B. Market value guidelines**

29. The market value guidelines provide methodologies which allow charities to determine a market value that is acceptable to the ATO, when applying the non-commercial supply rules.

30. A supply made by a charity is GST-free if the supply is either:

- a supply of accommodation and the consideration for the supply is less than 75% of the GST-inclusive market value of the supply, or
- a supply of something other than accommodation and the consideration for the supply is less than 50% of the GST-inclusive market value of the supply.

31. When working out a market value (for the purpose of subsection 38-250(1)), charities do not have to obtain a professional valuation by a licensed valuer. However, if a charity chooses to use the service of a licensed valuer, the valuer must apply the market value guidelines when working out the market value.

32. For more information on the non-commercial supply rules, refer to subsection 38-250(1) of the GST Act.

33. The market value guidelines address the following matters:

- market value
- the 'same supply test'
- the 'similar supply test'
- other methods approved by the Commissioner
- the use of the successive tests
- market value benchmarks
- record keeping, and
- reviewing the application of the non-commercial supply rules.

34. In these guidelines, all references to consideration, market values, prices and amounts are GST-inclusive.

## 1. Market value

35. The term ‘market value’ is not defined in the GST Act. For the purposes of the non-commercial supply rules, we consider that the market value of a thing is the price that would be negotiated between:

- a knowledgeable, willing and not anxious buyer, and
- a knowledgeable, willing and not anxious seller acting at ‘arm’s length’ in an appropriate market.

### *Example 1*

36. Based on this definition, if a charity sells assets or real property at public auction or on the open market, the consideration received for the supply will be taken to be the market value.

37. In determining the market value of a supply of a thing for the purposes of subsection 38-250(1), the definition of market value above must always be used. Therefore, if the amount determined by the charity is not an amount that a willing but not anxious purchaser is prepared to pay for the thing supplied, then the amount does not represent the market value of the supply.

38. In determining the market value of a supply, a charity must apply the following successive tests:

- the charity must work out whether the same supply exists within the market they operate in – referred to as the ‘same supply test’
- if no ‘same supply’ exists, the charity must then work out whether a similar supply exists within the market they operate in – referred to as the ‘similar supply test’
- if no ‘same supply’ or ‘similar supply’ exists, the charity may seek approval from the Commissioner to use another methodology to calculate the market value of the supply.

39. These tests are successive tests for working out the market value of a supply, they are not alternative tests. If a charity identifies a ‘same supply’ in the market, the price charged by this other supplier is then the market value of the charity’s supply. The charity cannot calculate the market value of the supply it makes by reference to the second or third tests. We consider that the first two tests would generally establish a market value and the last test would be rarely used.

40. ‘Benchmark market values’ – Section C are provided for certain supplies made by charities. Those charities eligible to use the benchmarks for their supplies will only need to use the above successive tests to work out the market values if they choose not to use the benchmarks.

## 2. The ‘same supply’ test

41. The same supply test requires a charity to work out whether a supply, the same as the one it makes, exists within the market they operate in. That is, in applying the same supply test, the charity compares its supplies to those in the market. The comparison is made between the supplies made by the charity and those by other suppliers. It is not made between the recipients of the supply or the suppliers.

42. The other suppliers in the market can be charities or profit making organisations.

43. If the same supply exists in the market, the price of this supply is the market value that the charity should use in their calculations.

44. Charities needs to take into account the following when making the comparison:
- identifying the market
  - the locality of the supply or area of the market
  - the quality or nature of supply
  - the size, quantity or duration of supply
  - the conditions of supply
  - other charitable or commercial suppliers, and
  - the number of comparisons.
45. Although these factors are considered separately below, they can often be interrelated.

### ***Identifying the market***

46. Charities must ensure they make their comparison in the same market they operate in.

#### *Example 2: residential accommodation versus commercial accommodation*

47. A charity provides affordable rental housing to low income households and it operates in the market for longer term residential accommodation. It cannot compare its supplies with accommodation provided by hotel operators. The charity and the hotel operators may be providers of 'accommodation', but they operate in different markets.

48. Broadly speaking, the charity operates in a market of residential tenancies and the hotel operates in the commercial accommodation market offered to travellers as transient guests. The charity may choose to use the 'benchmark market values' instead of using the 'same supply test'.

#### *Example 3: second-hand goods retail market versus the new goods retail market*

49. A charity buys various items of traded-in electrical appliances from retailers for the purpose of selling them to low income households. Their sales are made in the second-hand goods retail market.

50. A sale of a new appliance by a retailer is not the same supply as the charity makes. However, as a sale of a traded-in appliance by the retailer to a consumer is made in a second-hand goods retail market, it is considered the same supply as the one the charity makes.

#### *Example 4: food retail market*

51. Students of a government school pay a fee to go on a zoo excursion. During the excursion, the government school purchases sandwiches from a lunch bar and supplies them to the students and staff. Sales of sandwiches by the lunch bar to other customers are the same supplies as those made by the school to the students or staff.

### ***Locality of the supply/area of the market***

52. The market value of the supply made by the charity is the price of the same supplies made by other suppliers in the market within which the charity operates. Therefore the area the market covers or the locality of the supplies can be an important factor in working out whether the comparison is acceptable. This factor is clear when there is a strong correlation between the geographic location and the price that can be charged.

53. The geographic location of the market or the supply is an important factor for the same supply test for the supplies of:

- residential accommodation
- leasing of commercial premises, and
- car parking.

### *Example 5*

54. A charity rents two bedroom apartments to low income households in certain suburbs. In order to establish a market value for the rent it charges, the charity should compare its apartments to other two bedroom apartments offered for rent in the residential tenancy market in those particular suburbs.

55. The charity should not compare its apartments to those located in other suburbs in other parts of the city. The charity may choose to use the 'benchmark market values' instead of using the 'same supply test'.

56. It should be noted that the GST treatment (taxable, input taxed or GST-free) of some supplies made by charities for the same consideration may depend on the location the charity makes the supplies.

57. The location of the market or supply is an important factor in applying the same supply test.

### *Example 6*

58. A charity leases two bedroom apartments to low income households in two different states for the same weekly rent. If the weekly rent is less than 75% of the weekly market rent of a two bedroom apartment in one state, (worked out under the same supply test), then the supply in that state is GST-free. If the weekly rent is above 75% of the weekly market rent of a two bedroom apartment in the other state, (worked out under the same supply test), then the supply in the other state is input taxed.

59. This result can occur if the weekly market rent in one state is considerably higher than that in the other state. The charity may choose to use the benchmark market values instead of using the same supply test.

60. There are, however, other supplies that a charity may make where the locality of the supply does not have a material impact on the market value of the supply. In these circumstances, the charity can look beyond their geographic location in working out the market value of their supply.

61. Food is an example of the type of supplies where the geographic location of the market or supply may not be a material factor in the 'same supply test'.

### ***Quality or nature of supply***

62. For the same supply test, the supply made by the charity must have the same quality or nature as the supplies in the market it is being compared with. Quality may include such things as:

- brands
- durability, functionality, workmanship and reliability
- expertise
- facilities
- fashion
- materials
- packaging or surrounding
- obsolescence



- professionalism
- technology
- warranty.

### *Example 7*

63. A government school holds a performance of a well known play performed by its drama class. It charges \$20 a ticket to attend. The 'same supply' would be a supply to attend a performance by other local amateur theatre or drama groups.

64. The school cannot use a supply to attend a performance of the same play performed by a professional theatre company as the same supply because of the difference in the quality of those supplies.

65. This means the school cannot use the ticket price charged by the professional theatre company to attend the same play as the market value of the supply it makes.

### *Example 8*

66. Fashion changes for clothing. Therefore, the price charged for an item of clothing as new season fashion at the beginning of a season cannot be used as the market value of those items that are new but out of season. Items that are new but out of season will have a different market value.

67. In identifying the same supply, a charity cannot compare its supply with another supply that is clearly of a better quality. However, such a strict application of the same supply test may make the test difficult to apply in practice and may impose large compliance costs.

68. In a case where there are genuinely identifiable differences in the quality of the 'same supply', the charity needs to take into account those differences in establishing the market value of the supply it makes. For this purpose, the charity needs to adjust the price of the 'same supply' by taking the following steps:

- identify the 'same' supply and its price
- identify all the differing characteristics shown in the quality of the 'same supply' when comparing with the supply the charity makes
- quantify those differing characteristics on a reasonable basis, and
- use the quantified values of those differing characteristics to adjust the price of the 'same supply'.

69. Charities must maintain documentary evidence of conclusive and tangible proof for each of these steps.

70. We consider that for the purposes of the same supply test, this process adjusts or modifies the 'same supply' so that it has the quality which is same as that of the supply the charity makes.

71. The price calculated for the modified/adjusted 'same supply' is the market value of the supply the charity makes.

72. The market value determined must represent an amount a willing but not anxious purchaser is prepared to pay.

### ***Size, quantity or duration of supply***

73. The size, quantity or duration of a thing supplied are factors which have a bearing on the market value of the supply.

*Example 9 – not same supplies*

74. The supply of an admission for a family of two adults and two children is not the same as two single supplies of an admission for one adult and two single supplies of an admission for one child.

75. The market value of this supply cannot be worked out by adding the prices of the four single supplies together.

**Conditions of supply**

76. The size, quantity or duration of a supply may be viewed as a condition of the supply. That is, the terms and conditions of a supply, amongst other things, quantify the amount of the supply.

*Example 10*

77. A single trip bus ticket entitles the holder to take one trip whereas a multi-trip ticket entitles the holder to take a set number of trips. A daily bus pass entitles the holder to take any number of trips on a specified day. A monthly bus pass entitles the holder to take any number of trips within a particular month.

78. The fees charged by the bus operator vary depending on the types of tickets supplied, that is, the conditions of the supplies.

*Example 11*

79. A boarding school makes a mixed supply of food and accommodation to its boarding students. The supply of food is three meals provided each day in the school dining room during a school term.

80. A condition of the supply requires the boarding school to provide to a boarding student a predetermined number of meals over a period of time. An example of a 'same supply' of food in the market is a supply of food by an operator providing full board to individuals (such as tertiary students) over a longer period of time (such as a semester).

81. As each boarding student is entitled to eat three meals a day during the school term, the boarding school may apply the 'same supply test' either:

- separately – to a supply of a type of meal such as a breakfast, a lunch or a dinner, or
- collectively – to a supply of meals encompassing breakfast, a lunch and a dinner.

**Other charitable or commercial suppliers**

82. The same supply test requires a charity to compare the supply it makes to those made by other suppliers in the market.

83. The other suppliers in the market can include other charities and profit making organisations. Ordinarily, profit making organisations undertake their activities to make a profit. Therefore, the charity can establish the market value of the supply it makes as the amount charged by profit making organisations making the same supply.

84. This is based on the assumption that the amount charged by a profit making organisation for the same supply, is higher than that charged by the other charities. The charity can otherwise establish the market value by using the highest amount charged by the other charitable suppliers.

*Example 12 – other charitable and profit making operators*

85. A charity sells new school uniforms for a school. In the same geographic area, there are other charitable and profit making organisations selling new school uniforms for other schools.

86. The charity can establish the market value of an item of new uniform it sells by using the highest amount charged for the same item, by the other charitable or profit making operators.

**Number of comparisons**

87. In the market the charity operates in, there may be more than one other supplier making the same supply but for a different price. Whilst it is not practical to obtain the full range of prices (of the same supply) the charity should generally obtain more than one price.

**3. The ‘similar supply’ test**

88. If there is no same supply in the market, the charity must work out whether a ‘similar supply’ exists.

89. If there is a similar supply and no ‘same supply’ in the market, the price of the ‘similar supply’ is the market value the charity should use.

90. Charities need to take into account the following when identifying a similar supply:

- the market itself
- the locality of the supply or area of the market
- the quality or nature of supply
- the size, quantity or duration of supply
- the conditions of supply
- other charitable or commercial suppliers, and
- the number of comparisons.

91. These factors are often interrelated. The points about these factors under the ‘same supply test’ are relevant to the ‘similar supply test’.

**Identifying the market**

92. For some supplies, charities may have difficulties in identifying a supply similar to the one they make in the market. In order to reduce compliance costs, a charity can use a broad categorisation of the supply it makes as justification for using certain supplies in the market as similar supplies.

93. In using the broad categorisation approach, charities must take into account the other factors such as the quality, nature and conditions of the supply.

94. Some ‘broad categorisations’ would include clothing, education, entertainment, food and furniture.

*Example 13: broad categorisation of education*

95. A charity offers a half-day class in relaxation techniques to unemployed adults for a small fee. There are no comparable classes offered in the market.

96. The charity would be able to use any half-day adult education course that is offered by other organisations that are similar to their half-day course in terms of nature, duration, standard of tuition and activities during the course.

97. That is, the half-day class in relaxation techniques and the half-day adult education course would be accepted as similar supplies made under the broad categorisation of 'education'.

*Example 14: broad categorisation of entertainment*

98. A regional government school holds a performance of a well known play performed by its drama class. There is an amateur choral society and no other amateur theatre or drama group in the area serviced by the school.

99. In applying the similar supply test, the school can classify the play under the category of entertainment which a choral concert of comparable duration and quality also belongs.

100. In these circumstances, the supply to attend a choral concert is a similar supply to the supply to attend its play.

*Example 15: broad categorisation and different conditions of supplies*

101. A university supplies daily 10 hour car parking permits to students for a fixed fee.

102. Another car park operator in the area charges the same fee for four hour car parking. Both the university and the other operator make supplies under the broad categorisation of car parking. However, the supplies they make are not the same or similar in terms of duration.

103. The university cannot compare its hourly rate with that of the other operator. This is because both of them make a supply for a specified duration regardless of how long the recipient actually occupies the parking space.

**Accommodation**

104. For accommodation, broad categorisation is not appropriate. This is because a charity in identifying a similar supply of accommodation needs to take into account:

- the type of accommodation provided – for example, a one bedroom with shared facilities, a one bedroom with an ensuite, a one bedroom apartment or dormitory style accommodation
- the services provided with the accommodation – for example, periodic cleaning, changing linen, and
- the conditions of occupancy – for example, a fixed term lease, a periodic lease or a licence or hire to occupy per night, per week or per period (such as a school term).

**Campsites**

105. A similar supply to a camping site in a church or school operated campsite can be a supply of an un-powered camping site that:

- has similar facilities in other tourist/holiday parks, and
- is in the same locality – advertised on for example, motoring or caravan and camping websites.

**4. Other methods approved by the Commissioner of Taxation**

106. We expect that the market value of most supplies made by charities can be worked out using the 'same supply test' and the 'similar supply test' successively. If no same or similar supply exists, charities can seek approval from us to use a methodology to calculate the market value of the supply.

107. The charity is responsible for developing this methodology. In developing the methodology, the charity needs to take the following steps:

- the charity must maintain evidence that shows it cannot identify a same supply or a similar supply by applying the 'same supply test' and then the 'similar supply test' to its circumstances
- the charity will need to isolate the specific supplies for which a same supply or a similar supply cannot be identified. Charities cannot group or aggregate supplies that have same supplies or similar supplies with those that do not
- the charity may develop an appropriate methodology to work out the market value of its supply, and
- the charity can ask the Commissioner of Taxation to approve this methodology.

108. Charities can ask the Commissioner to approve their methodology by applying for a GST private ruling by:

- using the Private ruling application form (not for tax professionals) (NAT 13742), or
- emailing us at [GSTMail@ato.gov.au](mailto:GSTMail@ato.gov.au).

### ***The approved 'cost plus' method***

109. The Commissioner has approved the use by charities of the following 'cost plus' method to work out the market value of a supply. Charities can only use this method if they cannot identify a same or similar supply to the one it makes.

110. The 'cost plus' method allows charities to work out the market value of their supply as the sum of:

1. direct costs incurred – for example, materials and direct labour
2. a reasonable apportionment of indirect costs incurred – for example, marketing, administration, office expenses, electricity, telephone and insurance
3. depreciation of assets used, and
4. imputed costs for things such as volunteer labour, donated goods and services and free rent.

111. Direct costs, apportioned indirect costs, depreciation and imputed costs must directly relate to making the supply.

112. The amount the charity works out using the approved 'cost plus' method is then considered the market value of the supply it makes.

113. It is important to note that the market value that is worked out by using the approved 'cost plus' method must represent an amount a 'willing but not anxious purchaser' is prepared to pay.

114. There may be strong evidence that the market value worked out by using the approved 'cost plus' method may be an amount higher than what a willing but not anxious purchaser is prepared to pay, because there is no same or similar supply in the local market. However, for the purposes of reducing compliance costs, we accept the market value worked out under the 'cost plus' method.

### ***The 'cost plus' method and mark-up***

115. It is generally not appropriate to apply a mark-up to the market value that has been worked out using this method. As there is no same or similar supply in the local market, a commercially realistic mark-up, based on industry norms, does not exist in the market in terms of the charity's supply.

## **5. Applying the successive tests**

### *Example 16: applying the successive tests*

116. On a government school's open day, a group of students, supervised by the home economics teaching staff, prepare lasagne, salads, bake scones and cakes. The quality of the food and the size of each serve are comparable to that sold by the local take-away food shop and bakery. The school sells the food to visitors in the canteen.

117. The school can use a serve of lasagne or salad sold by the local take-away food shop as a 'same supply' of the lasagne and salad it prepares. It can also use a scone or cake sold by the local bakery as a 'same supply' of the scones and cakes it bakes.

118. Another group of students cook chickens using an east African recipe. There is no local shop selling chickens using this recipe. The school sells the food to visitors in the canteen. Using the 'broad categorisation of food' and looking at the quality and quantity factors, the school can use a supply of a 'roasted chicken' by the local take-away food shop as a 'similar supply'.

119. A third group of students sell widgets, designed and made by them, under the supervision of the science and technology teaching staff. There is no same or similar supply in the local market. The school can use the 'cost plus' method approved by the Commissioner to work out the market value of the widgets.

120. Non-profits operating a canteen on government school grounds can choose to have all its supplies of food made through the canteen treated as input taxed. Example 16 illustrates the circumstances in which the 'same supply test' and 'similar supply test' would be appropriate to use.

121. Government schools can also choose to have all of their supplies they make in relation to a fund-raising event, treated as input taxed, provided certain requirements are met. Example 16 illustrates the circumstances in which the 'cost plus' method approved by the Commissioner would be appropriate to use.

## **6. Market value benchmarks**

122. The 'benchmark market values' in section C provide the market values of a range of supplies that charities can use as a reference point. Charities making the following supplies can use the benchmark market values to work out their market values:

- supported accommodation and community housing (long term accommodation)
- crisis care (short term and long term accommodation as appropriate)
- retirement villages (long term accommodation)
- other residential housing (long term accommodation)
- 'meals on wheels', charity 'soup kitchens', and other charities that provide or supply meals to the frail, homeless or needy (food guidelines).

123. The accommodation benchmarks do not apply to accommodation supplied by charities at:

- campsites
- university halls and colleges
- boarding schools, and
- non-residential buildings, such as halls and offices.

## **7. Record keeping**

124. Charities must keep and maintain records that adequately document the process and information collected in working out the relevant market values which the consideration of the supplies the charity makes is to be compared to.

125. For example, the market values established and the methods used may be documented or minuted in the charity's books of account. This information should be captured in a way that will allow cross-referencing to accounting statements. It should also correspond to what is recorded on the charity's Business activity statements.

## **8. Reviewing the application of the non-commercial supply rules**

126. Charities using subsection 38-250(1), the non-commercial supply rules, should monitor the market they make the supply in to ensure they will respond promptly to any material changes in the market.

127. Changes in market conditions include, amongst other things:

- suppliers entering or leaving the market
- changes in the quality of the supplies as a result of different consumers' expectations
- changes in input costs, and
- changes in prices charged.

128. Input costs include real costs such as direct and indirect costs incurred depreciation and imputed costs.

## **Section C. Benchmark market values for charities**

### **Purpose**

129. The purpose of this document is to provide a basis or benchmark of the market value of a range of supplies for the types of charities listed to use as a reference point. It will also provide certainty as to the ATO's view of suitable market values for these supplies.

130. These guidelines will enable organisations to make a comparison of the benchmark market value and the consideration they receive for the supply provided to determine whether the supplies they make are taxable, GST-free or input taxed. Specifically, charities will be able to easily determine whether a supply is for consideration less than 50% or 75% (whichever is applicable) of the GST-inclusive market value.

131. These guidelines will be updated annually to take effect from 1 January each year.

### **What organisations may use these guidelines**

132. The use of the benchmarks (accommodation and meals) as an alternative to the general rules provided in the 'market value guidelines' document is limited to the following types of organisations (and supplies by those organisations):

- supported accommodation and community housing (long-term accommodation rates)
- crisis care (short-term and long-term accommodation as appropriate)
- retirement villages not meeting the definition of 'retirement village' in section 195-1 of the GST Act (long-term accommodation)
- residential housing (long-term accommodation)
- 'meals on wheels', charity 'soup kitchens' and organisations that provide or supply meals to the frail, homeless or needy (food guidelines).

133. The accommodation benchmarks are not for use by organisations where there is a market value that can be established using the first two tests described in part B, that is, actual market value for a supply or a market value of a similar supply. That is, the **benchmarks do not apply** to the following types of organisations or supplies:

- campsite accommodation
- university halls and colleges
- boarding schools
- non-residential buildings like halls and offices.

### **ATO position**

134. The GST law provides that most commercial activities of charities will be taxable but the non-commercial supplies provided by charities will be GST-free. Thus, supplies for nominal consideration made by a charity are GST-free. Nominal consideration means less than 50% of the GST-inclusive market value for supplies other than accommodation and less than 75% for supply of supported accommodation and community housing.

135. Where a charity uses the benchmark market values provided in these guidelines as the basis to determine whether the supplies they are making are taxable, input taxed or GST-free because of the application of subsection 38-250(1) that market value will be accepted by the ATO.

136. Where these benchmark market values do not satisfy or are not suitable to the needs of an organisation of the types listed above, that organisation may undertake their own market valuation to meet their individual situation. In these circumstances the organisation should retain appropriate documentation to support alternative market values.

### **Application of the benchmark market values**

137. The benchmark market values listed below are effective from 1 January 2012 and will apply to supplies made from that date. The benchmark market values will be updated next to operate from 1 January 2013.

138. To view previous benchmark market values please go to view history.

139. This document provides benchmark market values for the following types of supplies:

- short-term accommodation
- meals
- board and quarters
- long-term accommodation
- employment services.

140. Also, there are examples provided to demonstrate the application of the benchmark values.

#### **1. Short-term accommodation**

141. The rates provided in table 1 are the appropriate benchmark market value for short-term accommodation per night for the applicable locations is listed. Where a location is not specifically listed, the 'Other country centre' in table 1, or an appropriate individual valuation should be used.



## **2. Meals**

142. The benchmark market values for meals are provided in table 4. The meal rates also vary by location.

143. Where an organisation supplies meals to another organisation such as a hospital, the organisation cannot use the benchmark market values. This is because the first mentioned organisation does not provide the meals to the frail, homeless or needy.

## **3. Short-term board and quarters**

144. Where short-term full board is supplied there are two components to that supply – accommodation and meals.

145. Because the non-commercial supply rules apply differently to each of these components, you apply the appropriate benchmark market value to each of them independently.

146. The benchmark market value for the **accommodation** component is:

- The rate for supported accommodation applicable to the location displayed at table 1.

147. The benchmark market value for the **food** component is:

- The applicable meal rates also displayed at table 1. Note that incidentals are not included in this calculation.

148. Because one fee is charged for both the food and accommodation, you will need to work out how much of the fee relates to accommodation and how much relates to food. You can then compare the portion of your fee that relates to food to the benchmark market value for food and the portion of the fee that relates to accommodation to the benchmark market value for accommodation to determine whether either or both the supply of food or accommodation is GST-free.

## **Apportioning your fee**

149. You can use any reasonable method to apportion the fee between the food and accommodation components. However, we have set out a method below that you may choose to use:

1. Add together the applicable benchmark market values for food and accommodation to obtain a total benchmark market value.
2. Calculate the benchmark market value for accommodation and the benchmark market value for food as a percentage of the total benchmark market value.
3. Use these same percentages to apportion the total fee charged between meals and accommodation.

150. Please refer to the examples below to see how to practically apply this method.

151. The rates in table one may also be used as the benchmark market value for emergency or crisis accommodation where the supply is a combination of accommodation and meals.

**Please note:** where an organisation purchases food and then provides it to someone else, the market value is the cost of the food purchased by the organisation rather than the benchmark market values.

## **4. Long-term accommodation**

152. The temporary accommodation weekly rates in table 5 are an acceptable basis for determining the market value for the supply of long-term residential accommodation.

153. For supplies of supported accommodation and community housing, nominal consideration is less than 75% of the GST-inclusive market value.

154. The benchmarks provided allow for:

- differing standards of accommodation
- other locations and regional areas, or
- seasonality of market rates.

155. The capital city rate provided may be used as the appropriate rate across all regions for the relevant State.

### **5. Long-term board and quarters**

156. When long-term full board is provided there are two components to that supply – accommodation and meals.

157. Because the non-commercial supply rules apply differently to each of these components, you apply the appropriate benchmark market value to each of them independently.

158. The benchmark market value for the **accommodation** component is:

- The rate for one bedroom accommodation applicable to the location displayed at table 5.

159. The benchmark market value for the **food** component is:

- The applicable meal rate displayed at table 4.

160. Because one fee is charged for both the food and accommodation, you will need to work out how much of the fee relates to accommodation and how much relates to food. You can then compare the portion of the fee that relates to food to the benchmark market value for food and the portion of the fee that relates to accommodation to the benchmark market value for accommodation to determine whether either or both the supply of food or accommodation is GST-free.

### **Apportioning your fee**

161. You can use any reasonable method to apportion the fee between the food and accommodation components. However, we have set out a method below that you may choose to use:

1. Add together the applicable benchmark market values for food and accommodation to obtain a total benchmark market value.
2. Calculate the benchmark market value for accommodation and the benchmark market value for food as a percentage of the total benchmark market value.
3. Use these same percentages to apportion the total fee charged between meals and accommodation.

162. Please refer to the examples below to see how to practically apply this method.

### **6. Employment service fees**

163. The benchmarks for employment service fees are displayed in table 6.

**Examples of the application of the values provided**

164. The following examples are provided to demonstrate the application of the benchmark market values. The client contribution or consideration for the supplies made may not be realistic in some of the cases but they are provided for demonstration purposes only.

**Short-term accommodation – supported accommodation**

165. Parramatta Community Care provides emergency housing in their Parramatta Hostel. In addition to the accommodation they provide breakfast and dinner. Their clients make a contribution of \$100.00 per day. Using the benchmarks the market value for this supply is as follows:

Sydney accommodation rate (table 1)	\$183.00
Breakfast and dinner (\$23.65 + \$45.60) (table 1)	\$69.25
Total benchmark market value/day	\$252.25

The accommodation component is 72.55% of the total benchmark market value.

The meals component is 27.45% of the total benchmark market value.

The fee charged by Parramatta Community Care is apportioned as follows:

- The accommodation component is 72.55% of \$100 (\$72.55).
- The meals component is 27.45% of \$100 (\$27.45).

166. Therefore, both the food and accommodation provided by Parramatta Community Care would be GST-free. This is because the consideration for the supply of the accommodation component (\$72.55) is less than 75% of the benchmark market value for the accommodation (\$183.00) and the consideration for the supply of the meals component (\$27.45) is less than 50% of the benchmark market value for meals (\$69.25).

167. Similar supplies (food and accommodation) are made by Parramatta Community Care for the same contribution of \$100.00 in their Hostel located in Dubbo, NSW (a 'Tier 2' country centre rate):

Dubbo accommodation rate (table 1 – Tier 2 country centre)	\$120.00
Breakfast and dinner (\$21.15 + \$41.65) (table 1)	\$62.80
Total benchmark market value/day	\$182.80

The accommodation component is 65.65% of the total benchmark market value.

The meals component is 34.35% of the total benchmark market value.

The fee charged by Parramatta Community Care is apportioned as follows:

- The accommodation component is 65.65% of \$100 (\$65.65).
- The meals component is 34.35% of \$100 (\$34.35).

168. In this case the accommodation provided by Parramatta Community Care would be GST-free. This is because the consideration for the supply of the accommodation component (\$65.65) is less than 75% of the benchmark market value for accommodation (\$120.00). The food provided by Parramatta Community Care would be a taxable supply. This is because the consideration for the supply of the meals component (\$34.35) is greater than 50% of the benchmark market value for meals (\$62.80).

**Long-term community housing accommodation**

169. The WA Community Housing Group provides a two bedroom flat in Cannington to a single parent and two children. The client makes a contribution of \$140.00 per week. Using these guidelines the market value for this supply is:

Market value \$331.25/week

170. In this example the supply by WA Community Housing Group would be GST-free because the consideration for the supply is less than 75% of the market value.

171. The Queensland Community Housing Group provide a one bedroom apartment to a single pensioner on Centrelink payments plus a small other income. The client makes a contribution of \$200.00 per week. Using these guidelines for the market value the market value for this supply is as follows:

Market value \$275.00/week

172. This supply would be input taxed because the consideration is 76.36% of the market value.

**Meals**

173. A charity in Renmark (SA) provides home cooked midday meals to aged persons at the Community Centre. The clients make a contribution of \$8.50 per meal. Using these guidelines the market value for this supply is as follows:

Other country centre meal rate (lunch)	\$24.20
Market value	\$24.20

174. In this example the supply of the midday meal would be GST-free because the consideration for the supply is less than 50% of the GST inclusive market value.

**Specific issues**

- These guidelines provide a benchmark market value for the supplies and locations specified
- These guidelines will be updated annually and will be effective from 1 January
- The benchmark market value provided is based on the GST-inclusive market value
- These guidelines can be relied upon as appropriate market values for use in considering the market value test in subsection 38-250(1)
- Where an organisation provides services across a range of locations covered specifically by these guidelines, it is not acceptable to average the market value. For example, it is not acceptable to average short term accommodation market values for Sydney (\$183.00) and NSW other country centres (\$100.00)

**Table 1: short-term accommodation – supported accommodation**

Place	Accommodation	Breakfast	Lunch	Dinner	Incidentals
	\$	\$	\$	\$	\$
Adelaide	157.00	23.65	26.55	45.60	17.30
Brisbane	201.00	23.65	26.55	45.60	17.30
Canberra	165.00	23.65	26.55	45.60	17.30
Darwin	189.00	23.65	26.55	45.60	17.30
Hobart	125.00	23.65	26.55	45.60	17.30

Melbourne	173.00	23.65	26.55	45.60	17.30
Perth	176.00	23.65	26.55	45.60	17.30
Sydney	183.00	23.65	26.55	45.60	17.30
High cost* country centres	See note below	23.65	26.55	45.60	17.30
Tier 2 ** country centres	120.00	21.15	24.20	41.65	17.30
Other country centres	100.00	21.15	24.20	41.65	17.30

\* Note: High cost country centres accommodation expenses as listed at Table 2 of this industry issue.

\*\* Note: Tier 2 country centres as listed at Table 3 of this industry issue.

**Table 2: high cost country centres – accommodation expenses**

<b>Country centre</b>	<b>\$</b>	<b>Country centre</b>	<b>\$</b>
Ballarat (Vic)	127.00	Kalgoorlie (WA)	169.50
Bendigo (VIC)	122.00	Karratha (WA)	285.00
Broome (WA)	222.50	Katherine (NT)	120.50
Bunbury (WA)	129.00	Kununurra (WA)	182.00
Burnie (TAS)	125.00	Launceston (TAS)	126.50
Cairns (QLD)	127.00	Mackay (QLD)	153.00
Carnarvon (WA)	151.00	Maitland (NSW)	131.50
Christmas Island (WA)	150.00	Mount Isa (QLD)	158.50
Dalby (QLD)	133.50	Newcastle (NSW)	142.50
Dampier (WA)	174.50	Newman (WA)	195.00
Derby (WA)	181.50	Norfolk Island	189.50
Devonport (TAS)	128.50	Port Hedland (WA)	270.00
Echuca (VIC)	122.50	Port Pirie (SA)	135.00
Exmouth (WA)	194.00	Thursday Island (QLD)	180.00
Geelong (VIC)	131.00	Townsville (QLD)	134.50
Geraldton (WA)	146.00	Weipa (QLD)	138.00
Gladstone (QLD)	138.50	Wilpena-Pound (SA)	144.00
Gold Coast (QLD)	170.00	Wollongong (NSW)	128.00
Halls Creek (WA)	195.00	Wonthaggi (VIC)	122.00
Horn Island (QLD)	169.00	Yulara (NT)	340.00
Jabiru (NT)	198.00		

\* Changes have been made to table 2 and table 3, please view the history of this industry issue to compare these tables with the previous version.

**Table 3: tier 2 country centres**

Albany (WA)	Kingaroy (QLD)
Alice Springs (NT)	Mildura (VIC)
Ararat (VIC)	Mount Gambier (SA)
Armidale (NSW)	Mudgee (NSW)
Bairnsdale (VIC)	Muswellbrook (NSW)
Bathurst (NSW)	Naracoorte (SA)
Bordertown (SA)	Orange (NSW)
Bright (VIC)	Port Augusta (SA)
Broken Hill (NSW)	Portland (VIC)
Bundaberg (QLD)	Port Lincoln (SA)
Castlemaine (VIC)	Port Macquarie (NSW)
Ceduna (SA)	Queanbeyan (NSW)
Cocos (Keeling) Islands	Renmark (SA)
Coffs Harbour (NSW)	Rockhampton (QLD)
Cooma (NSW)	Roma (QLD)
Dubbo (NSW)	Seymour (VIC)
Emerald (QLD)	Swan Hill (VIC)
Esperance (WA)	Tamworth (NSW)
Gosford (NSW)	Tennant Creek (NT)
Goulburn (NSW)	Toowoomba (QLD)
Hamilton (VIC)	Tumut (NSW)
Hervey Bay (QLD)	Wagga Wagga (NSW)
Horsham (VIC)	Warrnambool (VIC)
Innisfail (QLD)	Whyalla (SA)
Kadina (SA)	

Rate: \$120.00

**Table 4: meal rates**

Amounts payable in respect of meals not purchased at board and lodging establishment.

<b>Meal</b>	<b>Amount for capital cities and high cost country centres *</b> \$	<b>Amount for centres other than capital cities and high cost country centres **</b> \$
Breakfast	23.65	21.15
Lunch	26.55	24.20
Dinner	45.60	41.65

\* Note: High cost country centres as listed at Table 2.

\*\* Note: Includes all tier 2 country centres as listed at Table 3 and all other country centres.

**Table 5: temporary accommodation – weekly\***

<i>Type of temporary accommodation</i>				
<b>Locality</b>	<b>4 or more bedrooms \$</b>	<b>3 bedrooms \$</b>	<b>2 bedrooms \$</b>	<b>1 bedroom * \$</b>
Adelaide	487.50	337.50	268.75	181.25
Brisbane	537.50	406.25	356.25	275.00
Canberra	656.25	418.75	406.25	262.50
Darwin	687.50	475.00	425.00	293.75
Hobart	356.25	275.00	250.00	168.75
Melbourne	725.00	550.00	418.75	293.75
Perth	531.25	362.50	331.25	200.00
Sydney	1075.00	837.50	656.25	475.00

\* includes boarding house rooms.

**Table 6: employment service fees**

Employment service fees listed are effective from 2009.

Permanent clerical staff and trainees

<b>Full time annual salary range</b>	<b>Candidate sourcing from database &lt;10 placements (per placement)</b>	<b>Total recruitment campaign &lt;10 placements (per placement)</b>
\$23,000 – \$48,000	\$1,077	\$2,700
\$49,000 – \$54,000	\$1,280	\$3,362
\$55,000 – \$60,000	\$1,485	\$3,952
\$61,000 – \$65,000	\$1,746	\$4,900
\$66,000 – \$77,000	\$2,111	\$6,167
\$78,000 – \$92,000	\$3,116	\$8,797
\$93,000 – \$115,000 (Exec)	\$4,367	\$10,675

Candidate sourcing from database is the placement of a candidate from a recruitment provider database.

Total Recruitment Campaign is the placement of a candidate from a recruitment campaign involving advertising positions and assessing candidates.

Reduced rates may apply if large numbers of people are recruited at one time.

## **Section D. GST treatment of newsletters, magazines and journals provided by charitable institutions**

175. The following issues have been raised in relation to the GST treatment of newsletters, magazines and journals supplied by charities:

1. Is the provision of a newsletter, magazine and journal (publication) by a charity registered for GST a taxable supply for GST purposes?
2. Under what circumstances would the supply of a publication be GST-free?
3. In connection with Issue 2, how does a charity work out the market value of its publications?
4. In connection with Issue 2, how does a charity work out the cost of supplying its publications?

176. The term ‘publication’ does not apply to books. The international standard book number (ISBN) is used as a basis for determining whether a publication is a book.

### **Issue 1: Is the provision of a newsletter, magazine and journal (publication) by a charity registered for GST a taxable supply for GST purposes?**

177. If a charity registered for GST supplies a publication for consideration (payment), this is taxable. It is not taxable however if it is provided for nominal consideration (see Issue 2). In this instance, the charity is supplying a good (a publication which is a newsletter, magazine or journal) for consideration. As such, the requirements for a taxable supply are met, and the sale of the publication will be subject to GST.

### **Issue 2: Under what circumstances would the supply of a publication be GST-free?**

178. If a charity makes a supply of a publication for consideration that is less than 50% of the market value of the supply (market value test) or less than 75% of the costs the charity incurs making the supply (cost of supply test), the publication will be GST-free.

#### *Example 1*

179. A charity produces and sells a magazine. Each magazine costs \$3 to make and has a market value of \$5. If it is sold for less than \$2.50, it will be GST-free under the market value test. Only one of the two tests need be met in order for the magazine to be GST-free.

180. If the magazine is sold for less than \$2.25, it will be GST-free under both the market value test and cost of supply test.

### **Issue 3: In connection with Issue 2, how does a charity work out the market value of its publications?**

181. In order to minimise compliance costs, we have developed three methods for charities to use in working out a market value for the publications and books they sell, subject to the following rules, if a charity:

- does not sell a publication to the public at large, the charity can choose to use either the ‘benchmark’ method or the ‘cost plus’ method
- sells a publication to the public at large, the charity should use the ‘general’ method, or
- sells a book, the charity should use the ‘general’ method.



***The ‘general’ method (the same supply test or similar supply test)***

182. The term ‘market value’ is not defined in the GST Act. For the purposes of the market value test, we consider that the market value of a thing is the price that would be negotiated between:

- a knowledgeable and willing but not anxious buyer, and
- a knowledgeable and willing but not anxious seller acting at arm’s length in an appropriate market.

***Example 2***

183. A parents and friends (P&C) group of a non-government school engages a publisher to produce 1,000 copies of a cook book. The publisher assigns an ISBN to the book. The P&C group sells the cook books to the public at large.

184. The P&C group can use either the ‘same supply test’ or ‘similar supply test’ in the market value guidelines – section B to work out the market value of the cook book.

***Example 3***

185. A charity produces a magazine on environmental and conservation matters and sells them to the public at large. It can use either the ‘same supply test’ or ‘similar supply test’ discussed in the market value guidelines – Section B to work out the market value of the magazine.

***The ‘benchmark’ method (the similar supply test)***

186. If a charity sells a publication to its clients only, and there are comparable supplies in the market, the charity can use the ‘similar supply test’ discussed in the market value guidelines – section B to work out the market value of the publication.

***Example 4***

187. A health promotion charity only sells its newsletters to; clients and members who are sufferers of a disease, health professionals, carers and other interested parties. The newsletter features some advertisements of aids and equipment for sufferers of the disease.

188. A similar supply to the newsletter sold by the charity is an investment newsletter which is of similar length, does not have a high level of advertising and focuses on industry specific issues. The price of the investment letter is the market value of the newsletter produced by the charity.

***The ‘cost plus’ method***

189. When a charity sells a publication only to its clients and members, and there is no comparable supply in the market, the charity can use the following ‘cost plus’ method to work out the market value of the publication. The ‘cost plus’ method allows the charity to work out the market value by applying a mark up of 100% to the total of the following:

- direct costs incurred – for example, materials and direct labour
- a reasonable apportionment of indirect costs incurred – for example, marketing, administration, office expenses, electricity, telephone and insurance
- depreciation of assets used, and
- imputed costs for things such as volunteer labour, donated goods and services and free rent.

**Issue 4: In connection with Issue 2, how does a charity work out the cost of supplying its publications?**

190. In working out the costs to supply its publications, a charity should include:
- all direct costs incurred – for example, materials and direct labour, and
  - a reasonable apportionment of indirect costs incurred – for example, marketing, administration, office expenses, electricity, telephone and insurance.
191. All direct and indirect costs incurred must be amounts paid (or payable) by the charity.
192. The following things cannot be included because they do not involve an actual outlay by the charity:
- depreciation of assets, and
  - imputed costs for things like volunteer labour, donations and free rent where the charity has not actually provided any consideration or incurred any real costs.

**Substantiation**

193. Charities must keep and maintain records that adequately document the process and information collected in working out the relevant market values which the consideration of the supplies they make is being compared to.
194. For example, the market values established and the methods used may be documented or minuted in the charity's books of account. This information should be reviewed regularly, for example, yearly or when prices or costs change.

**The treatment of advertising**

195. An advertisement in a publication is a supply of services and a publication is a supply of a good.
196. A supply of advertising in a publication by a charity is GST-free, if the supply is:
- for consideration that is less than 50% of the market value of the supply, or
  - is less than 75% of the costs the charity incurs in making the supply.

**Section E. Cultural and performing arts sector****Applying the cost of supply test to tickets supplied by organisations in the cultural and performing arts sector**

197. Non-profit organisations in the cultural and performing arts sector that are charities can apply a range of GST concessions. A gift deductible entity for GST purposes is an entity that can receive gifts or contributions deductible under Division 30 of the *Income Tax Assessment Act 1997* (ITAA 1997).
198. There has been some concern in the cultural and performing arts sector about how the 'cost of supply test' applies to supplies of tickets for performances and events.
199. A supply (that is not a supply of accommodation) by a charity is GST-free if the consideration received for the supply is less than 75% of the consideration the charity provided, or was liable to provide, for acquiring the thing supplied.
200. The consideration the supplier provided or was liable to provide is GST-inclusive.

201. For more information on:

- the GST concessions available for non-profit organisations, refer to Tax basics for non-profit organisations, and
- the cost of supply test, refer to subparagraph 38-250(2)(b)(ii) of *A New Tax System (Goods and Services Tax) Act 1999*.

### **Methodology for applying the cost of supply test – supplies made by charities in the cultural and performing arts sector**

202. The following methodology for applying the cost of supply test is approved for use by charities in the cultural and performing arts sector that cannot establish their actual costs at the time of supply.

203. This methodology is within the scope of the GST legislation and uses the principles explained in the cost of supply guidelines – section A. It simplifies the administrative and compliance requirements for the sector.

204. To correctly calculate whether a supply is GST-free or taxable, charities must go through the following steps.

#### ***Step 1: working out the cost of making the supply***

205. Estimate the projected costs for a season of performances, exhibition or event. Do this when the actual costs will not be known until after the supplies have been made. However, if actual costs are available they must be used.

206. Estimate the total number of tickets (of all classes) that will sell.

207. Divide the projected costs by the total number of tickets to obtain the cost of supplying a ticket.

208. We accept that when applying the cost of supply test, charities can include all direct costs and a reasonable apportionment of indirect costs. However, costs used must be real costs. Things like voluntary labour, donations, other imputed costs and depreciation can not be included. All projected costs must be realistic and must be aligned with other costing conducted when the charity determines ticket prices and the costs of holding an event or performance.

#### ***Step 2: working out whether a supply is GST-free***

209. For each class of ticket, the charity should divide the price that is charged for a ticket in that class by the cost of supplying a ticket, worked out in step 1.

210. If the price charged for that ticket is less than 75% of the cost of supplying the ticket, it will be GST-free.

211. If the price charged is at or more than 75% of the cost of supplying the ticket, it will be subject to GST.

212. All tickets in a class of tickets will be treated in the same way.

#### ***Season tickets***

213. A season ticket entitles the holder to be admitted to a specific number of performances, exhibitions or events. Season tickets and single tickets are regarded as two classes of ticket for the methodology.

214. In step 1 of the methodology, each season ticket is counted as the number of admissions which the ticket allows when working out the total number of tickets for all classes. The cost of supplying a season ticket is the cost of supplying a single ticket multiplied by the number of admissions allowed by the season ticket.

215. In step 2 of the methodology, the price of a season ticket is compared to the cost of supplying the season ticket in working out whether a supply of the season ticket is GST-free.

*Example 1: bulk discount*

216. A charity charges \$50 for a single ticket to a performance and \$450 for 10 tickets to the performance. Bundles of 10 tickets and single tickets are regarded as two classes of tickets for the methodology. The charity should follow the process in 'Season tickets' in working out whether a supply of a bundle of 10 tickets is GST-free.

*Example 2: applying the methodology to supplies of tickets*

217. A charity estimates that it will cost them \$4.2 million to produce a season of performances.

218. They have four classes of tickets:

Pensioners and students pay \$25 per ticket	20,000 tickets available
B Reserve tickets are sold for \$45 per ticket	40,000 tickets available
A Reserve tickets are sold for \$100 per ticket	10,000 tickets available
Box seats are sold for \$175 per ticket	1,000 tickets available
<b>Total</b>	71,000 tickets available

219. The charity receives several government grants to help fund their activities. These grants are consideration for an agreement to supply services, and are not used in the calculation of the cost of supplying a ticket to a performance.

220. They estimate that they will sell approximately 65,000 of the available tickets.

221. The cost of supplying a ticket is \$64.62 (\$4,200,000/65,000). 75% of the cost of supply is \$48.47 (\$64.62 x 75%).

222. Any tickets sold for less than \$48.47 will be GST-free.

223. Looking at the different classes of tickets:

- \$25 tickets will be GST-free as  $(25/64.62) \times 100\% = 38\%$
- \$45 tickets will be GST-free as  $(45/64.62) \times 100\% = 69\%$

224. The other tickets will be taxable because the consideration received per ticket is greater than the cost of supplying a ticket.

**Public museums, public art galleries and public libraries**

***Applying the cost of supply test – admission fees to public museums, public art galleries and public libraries***

225. Non-profit public museums, public art galleries and public libraries that are charities can apply a range of GST concessions. A gift deductible entity for GST purposes is an entity that can receive gifts or contributions that are deductible under Division 30 of the ITAA 1997.

226. Public museums, public art galleries and public libraries are part of the cultural sector. There has been some concern in the cultural and performing arts sector about how the cost of supply test applies to supplies of tickets and admissions for performances and exhibitions.

227. A supply (that is a not a supply of accommodation) by a charity is GST-free if the consideration received for the supply is less than 75% of the consideration the charity provided, or was liable to provide, for acquiring the thing supplied.

228. The consideration the supplier provided or was liable to provide is GST-inclusive.

229. For more information on:

- the GST concessions available for non-profit organisations, refer to Tax basics for non-profit organisations, and
- the cost of supply test, refer to subparagraph 38-250(2)(b)(ii) of *A New Tax System (Goods and Services Tax) Act 1999*.

***Methodology for applying the cost of supply test – supplies made by charities operating public museums, public art galleries or public libraries***

230. The following methodology for applying the cost of supply test is approved for use by charities that operate public museums, public art galleries or public libraries and cannot establish their actual costs at the time of supply. This methodology is within the scope of the GST legislation and uses the principles explained in the Cost of supply guidelines – section A. It simplifies the administrative and compliance requirements for the sector.

231. To correctly calculate whether a supply is GST-free or taxable, charities must go through the following steps.

***Step 1: working out the cost of making a supply***

232. Estimate the projected costs for an exhibition or event. Do this when the actual costs will not be known until after the supplies have been made. However if actual costs are available they must be used.

233. Estimate the total number of admissions (of all classes) that will sell.

234. Divide the projected costs by the total number of admissions to obtain the cost of supplying an admission.

235. We accept that when applying the cost of supply test, charities can include all direct costs and a reasonable apportionment of indirect costs. However, costs used must be real costs. Things like voluntary labour, donations, other imputed costs and depreciation can not be included. All projected costs must be realistic and must be aligned with other costing conducted when the charity determines ticket prices and the costs of holding an event or exhibition.

236. If public museums or public art galleries hold special exhibitions in addition to their general operations (of exhibiting their collections), they may apply Step 1 to calculate the cost of supplying an admission to the special exhibitions by using the following options.

**Option 1:** treat the general operations and special exhibition together when estimating the projected costs and the total number of admissions. The cost of supplying an admission to the general operations is the same as the cost of supplying an admission to the special exhibition.

**Option 2:** treat the general operations and the special exhibition separately. If a public museum or public art gallery chooses this option, they will be required to isolate the projected costs and admissions for the special exhibition in working out a separate cost of supplying an admission to the special exhibition. In allocating costs to the special exhibition, both direct costs and an appropriate proportion of indirect costs must be taken into account. To the extent that projected costs and number of admissions have been included in the calculation of the cost of supplying an admission for the special exhibition, they will not be included in the calculation of the cost of supplying an admission for the general operations. Therefore, the cost of supplying an admission to the special exhibition may not be the same as the cost of supplying an admission to the general operations.

**Step 2: working out whether a supply is GST-free**

237. For each class of admissions, the charity should divide the price that is charged for an admission in that class by the cost of supplying an admission, worked out in step 1.

238. If the price charged for that admission is less than 75% of the cost of supplying the admission, it will be GST-free.

239. If the price charged is at or more than 75% of the cost of supplying the admission, it will be subject to GST.

240. All admissions in a class of admissions will be treated in the same way.

**Example 3: applying the methodology to supplies of admissions**

241. A public museum estimates that the cost of operating and maintaining the museum for the full year is \$4.2 million. This cost includes \$600,000 estimated for holding a special 'one-off' exhibition.

242. The museum has the following admission prices:

**General operations**

- Concessional admissions \$5
- General admission \$12

**Special exhibition**

- Concessional admissions \$10
- General admission \$25

243. The museum estimates total admissions for the general operations and special exhibition as follows:

- **General operations:** 165,000 admissions
- **Special exhibition:** 15,000 admissions

244. The museum receives several government grants to help fund their activities. These grants are consideration for an agreement to supply services, and are not used in the calculation of the cost of supplying an admission.

**Option 1: treating the general operations and special exhibition together**

The estimated costs are \$4,200,000.

The estimated total number of admissions to the general operations and special exhibition is 180,000 (165,000 + 15,000).

The cost of supplying an admission is \$23.33 ( $\$4,200,000/180,000$ ).

75% of the cost of supply is \$17.50 ( $\$23.33 \times 75\%$ ).

Admissions for less than \$17.50 will be GST-free.

Looking at the different classes of admissions:

- All admissions to the general operations will be GST-free as the admission fees of \$5 and \$12 are less than 75% of the cost of supplying an admission.
- The concessional admissions to the special exhibition will be GST-free as the admission fee of \$10 is less than 75% of the cost of supplying an admission.
- The general admissions to the special exhibition will be taxable because the admission fee of \$25 is greater than 75% of the cost of supplying an admission ( $\$(25/23.33) \times 100\% = 107\%$ ).

**Option 2: treating the general operations and special exhibition separately****General operations**

Estimated costs associated with general operations are \$3,800,000 (\$4,200,000 - \$600,000).

The estimated total number of admissions to the general operations is 165,000.

The cost of supplying an admission to the general operations is \$23.03 (\$3,800,000/165,000).

75% of the cost of supply is \$17.30 (\$23.03 x 75%)

All admissions to the general operations will be GST-free as the admission fees of \$5 and \$12 are less than

75% of the cost of supplying an admission.

**Special exhibition**

Estimated costs associated with the special exhibition are \$600,000.

The estimated total number of admissions to the special exhibition is 15,000.

The cost of supplying an admission to the special exhibition is \$40 (\$600,000/15,000).

75% of the cost of supply is \$30 (\$40 x 75%).

All admissions to the special exhibition will be GST-free as the admission fees of \$10 and \$25 are less than

75% of the cost of supplying an admission.

**Wide application of the methodology to non-accommodation supplies**

245. The methodology developed for charities operating public museums, public art galleries or public libraries is same as that for charities in the cultural and performing arts sector.

246. The methodology has wide application and can be used by charities making other kinds of non-accommodation supplies.

*Example 4: transport services*

247. A charity operates a community bus for the purposes of transporting elderly and disabled persons around the neighbourhood. The charity charges 50 cents for a single trip and \$4 for 10 single trips. The charity can apply the cost of supply methodology to the transport supplies (see examples 1 and 2).

*Example 5: conference services*

248. A charity holds a conference and charges different registration fees for pensioners, students, adults holding concession cards, adults and families. The charity can apply the cost of supply methodology to conference services (see examples 1 and 3).

*Example 6: supplying books*

249. A charity publishes a book on the protection and enhancement of natural environment and sells it for \$25 a copy. The charity publishes another book on endangered wildlife and native vegetation and sells it for \$35 a copy.

250. The charity can apply the cost of supply methodology to the supplies of books by using:
- option 1 – that is, applying the methodology collectively to both types of books to work out the cost of supplying a book, or
  - option 2 – that is, applying the methodology separately to each type of book to work out separately (these costs may be different)
    - the cost of supplying a book on the protection and enhancement of natural environment, and
    - the cost of supplying a book on endangered wildlife and native vegetation.
251. Also refer to example 3.

*Example 7: a university residential college supplying meals*

252. A university residential college makes a mixed supply of food and accommodation to students for weekly fees on a semester basis. The supply of food comprises three meals provided each day in the college dining room during the semester.
253. As each student is entitled to consume three meals each day during the semester, the college can apply the cost of supply methodology to the supplies of meals by using:
- option 1 – that is, applying the methodology collectively to daily meals encompassing a breakfast, a lunch and a dinner to work out the cost of supplying a breakfast, a lunch and a dinner each day, or
  - option 2 – that is, applying the methodology separately to each type of meal such as breakfasts, lunches or dinners to work out separately (these costs may be different)
    - the cost of supplying a breakfast
    - the cost of supplying a lunch, and
    - the cost of supplying a dinner.
254. Also refer to example 3.

255. Example 7 demonstrates that the methodology we have approved in this section allows a charity-supplier to choose an option which the charity-supplier considers is more appropriate in its circumstances. We have also approved a similar methodology for boarding schools, university halls and colleges supplying meals to students on longer term bases (see section F).

### **Cost of supplying accommodation**

*Example 8: a university residential college supplying accommodation*

256. A university residential college makes a mixed supply of food and accommodation to students for weekly fees on a semester basis. Accommodation options are single and double rooms with shared facilities, single rooms with private facilities, and one bedroom apartments.
257. The college can apply the methodology with one modification to the supplies of accommodation. The modification follows the principles explained in the Cost of supply guidelines – section A and requires the college to include depreciation in the projected costs, rather than the full costs of depreciable assets used to provide accommodation.
258. The college can apply the modified methodology by using:
- option 1 – that is, applying the modified methodology collectively to all accommodation options on a weekly basis to work out the cost of supplying accommodation, or



- option 2 – that is, applying the modified methodology separately to each type of accommodation option such as single rooms with shared facilities, double rooms with shared facilities, single rooms with private facilities or one bedroom apartments to work out separately (these costs may be different)
  - the cost of supplying accommodation in a single room with shared facilities
  - the cost of supplying accommodation in a double room with shared facilities
  - the cost of supplying accommodation in a single room with private facilities, and
  - the cost of supplying accommodation in one bedroom apartment.

259. Also refer to example 3.

## **Section F. Supply of meals in boarding schools, university halls or colleges and other residential education facilities**

### **Applying the cost of supply test – meals supplied in boarding schools, university residential halls or colleges, and other residential educational facilities**

260. Some government schools and charities operate boarding schools. Some universities operate residential halls or colleges.

261. For the purposes of this section, the term ‘other residential educational facilities’ is used to refer to the following types of residential halls or colleges, those operated by:

- TAFEs and higher education institutions
- charities and are affiliated with universities under the respective statutory provisions of the universities, and
- charities and are affiliated with higher education institutions.

262. Generally, this type of operator-supplier charges a student-resident a single fee for supplying the student-resident, with meals, accommodation and other things for a period. The period may be a term, a semester, an academic year or a school year. For GST purposes, the operator-supplier makes a bundle of supplies to the student-resident for the fee. In conducting its general operations, during the period, the operator-supplier may supply each student-resident with:

- three meals per day, or
- two meals per day on Mondays to Fridays and three meals per day on weekends and public holidays.

263. Higher education institutions that are within the meaning of the *Higher Education Funding Act 1988* are charities and gift deductible entities.

264. TAFEs are gift deductible entities.

265. Charities can apply a range of GST concessions. Some charities making the above supplies have been concerned about the application of the cost of supply test to their supplies.

266. A supply (that is not a supply of accommodation) by a charity is GST-free if the consideration received for the supply is less than 75% of the consideration the charity provided, or was liable to provide, for acquiring the thing supplied.

267. For more information on:

- the GST concessions available for non-profit organisations, refer to Tax basics for non-profit organisations, and
- the cost of supply test, refer to subparagraph 38-250(2)(b)(ii) of *A New Tax System (Goods and Services Tax) Act 1999*.

**Methodology for applying the cost of supply test – meals supplied in boarding schools, university residential halls or colleges, and other residential educational facilities**

268. The following methodology for applying the cost of supply test is approved for meals supplied in boarding schools, university residential halls or colleges, and other residential educational facilities where the actual costs cannot be established at the time of supply.

269. This methodology is within the scope of the GST legislation and uses the principles explained in the cost of supply guidelines – section A. It simplifies the administrative and compliance requirements for the supplier.

270. To correctly calculate whether a supply is GST-free or taxable, the supplier must go through the following steps.

**Step 1: work out the cost of making a supply**

271. Estimate the projected costs of providing meals in a period (such as a term, a semester, an academic year or a school year) for which the supplier charges a student-resident a single fee.

272. Estimate the total number of all meals to be provided in the period. The total number of meals provided includes:

- meals provided to student-residents
- free meals provided to supervising staff and guests
- casual meals provided to other paying staff and students, and
- meals provided (ordered) but not consumed, for example a student-resident elects not to eat a meal.

273. Divide the projected costs for the period by the estimated total number of meals to be provided for the period to obtain the cost of supplying a meal.

274. We accept that when applying the cost of supply test, a supplier can include all direct costs (for example, food and kitchen staff wages) and a reasonable apportionment of indirect costs (for example, electricity and insurance). However, costs used must be real costs. Things like voluntary labour, donations, other imputed costs and depreciation can not be included. All projected costs must be realistic and must be aligned with other costing conducted when the supplier determines meal prices and the costs of providing a meal.

*Special functions*

275. If a supplier holds a special 'one-off' function, such as a valedictory dinner, the supplier may use Step 1 to work out the cost of supplying a meal in the function by using the following options.

**Option 1:** treat the general operations and the special function together in estimating the projected costs and the total number of all meals. The cost of supplying a meal in the general operations is the same as the cost of supplying a meal in the special function.

**Option 2:** treat the general operations and the special 'one-off' function separately. If the supplier chooses this option, it must isolate the projected costs and the number of meals provided at the special function when working out a separate cost of supplying a meal at the special function.

276. In allocating costs to the special function, both direct costs and an appropriate proportion of indirect costs must be taken into account. To the extent that projected costs and number of meals have been included in the calculation of the cost of supplying a meal at the special function, they will not be included in the calculation of the cost of supplying a meal in the general operations. Therefore, the cost of supplying a meal in the special function may not be the same as the cost of supplying a meal in the general operations.

**Step 2: working out whether a supply is GST-free**

277. Divide the price that is charged for a meal by the cost of supplying a meal, worked out in Step 1.

278. As the supplier charges a student-resident a single fee for supplying the student-resident with meals, accommodation and other things for the period, the supplier needs to work out the 'price' it charges for the meals by apportioning the single fee on a reasonable basis (see Working out the payment (consideration) for the supply).

279. If the supplier charges different prices for meals supplied to student-residents and others, such as non-resident students and staff, each price charged should be compared with the cost of supplying a meal to work out whether a supply of a meal for that price is taxable or GST-free.

280. The supplier can not compare the average price with the cost of supplying a meal.

281. If the price charged for a meal is less than 75% of the cost of supplying the meal, the supply will be GST-free.

282. If the price charged is equal to or more than 75% of the cost of supplying the meal, it will be subject to GST.

*Example 1: applying the methodology to meals supplied in boarding schools, university residential halls or colleges, and other residential educational facilities*

283. A government boarding school provides facilities for 50 junior boarding students, 40 senior boarding students and five supervising staff. It provides three daily meals to each boarding student and supervising staff.

284. In the 2009 school year comprising 260 days, the school estimates it will supply:

- 70,200  $((50 + 40) \times 3 \times 260)$  meals to 50 junior boarding students and 40 senior boarding students for fees
- 3,900  $(5 \times 3 \times 260)$  meals to five boarding school supervising staff free
- 9,000 lunches to paying staff and day students, and
- 500 dinners to paying guests at a special 'one-off' function.

285. The school estimates that the cost of providing meals for the 2009 school year is \$500,000. The estimated cost for providing meals at the special 'one-off' function of \$50,000 is included in this cost.

286. The school has the following meal prices:

<b>General operations</b>	
Three daily meals supplied to a junior boarding student	\$11.50
Three daily meals supplied to a senior boarding student	\$12
A lunch supplied to a staff member or a day student	\$6
<b>Special function</b>	
A dinner	\$100

287. The boarding school estimates total number of meals supplied as follows:

General operations comprising all meals supplied to boarding students and supervising staff, and lunches supplied to paying staff and day students	83,100 meals
Special function comprising 500 dinners	500 meals

### **Option 1: treating the general operations and special function together**

The estimated costs are \$500,000.

The estimated total number of meals supplied is 83,600 (70,200 + 3,900 + 9,000 + 500).

The cost of supplying a meal is \$5.98 (\$500,000/83,600).

75% of the cost of supplying a meal is \$4.49 (75% x \$5.98).

75% of the cost of supplying three daily meals is \$13.47 (3 x \$4.49).

A supply of three daily meals to a junior boarding student will be GST-free (\$11.5 is less than \$13.47).

A supply of three daily meals to a senior boarding student will be GST-free (\$12 is less than \$13.47).

A supply of a lunch to a staff member or day student for \$6 will be taxable (\$6 is greater than \$4.49).

A supply of a dinner in the special function for \$100 will be taxable (\$100 is greater than \$4.49).

### **Option 2: treating the general operations and special function separately**

#### **General operations**

Estimated costs for providing meals in general operations are \$450,000 ((\$500,000 - \$50,000)).

The estimated total number of meals provided in the general operations is 83,100 (70,200 + 3,900 + 9,000).

The cost of supplying a meal in the general operations is \$5.42 (\$450,000/83,100).

75% of the cost of supplying a meal is \$4.06 (75% x \$5.42).

75% of the cost of supplying three daily meals is \$12.18 (3 x \$4.06).

A supply of three daily meals to a junior boarding student will be GST-free (\$11.5 is less than \$12.18).

A supply of three daily meals to a senior boarding student will be GST-free (\$12 is less than \$12.18).

A supply of a lunch to a staff member or day student for \$6 will be taxable (\$6 is greater than \$4.06).

#### **Special function**

Estimated costs for providing dinners in the special function are \$50,000.

The estimated total number of dinners provided in the special function is 500.

The cost of supplying a dinner in the special function is \$100 (\$50,000/500).

75% of the cost of supplying a dinner is \$75 (75% x \$100).

288. A supply of a dinner in the special function for \$100 will be taxable (\$100 is greater than \$75).

## **Section G. Supplies of accommodation in university residential halls or colleges and other residential educational facilities**

### **Methodology for applying the market value guidelines to accommodation supplied in university residential halls or colleges, and other residential educational facilities**

289. In consultation with the Australian Valuation Office, the following methodology for applying the market value guidelines to accommodation supplied by charities, in university residential halls or colleges, and other residential educational facilities has been approved for use by charities.

290. This methodology is within the scope of the GST legislation and uses the principles explained in the Market value guidelines.

291. A supply of accommodation by a charity is GST-free if the consideration received for the supply is less than 75% of the GST-inclusive market value of the supply.

292. To work out correctly whether a supply of accommodation is GST-free, charities must compare its own supply of accommodation with another supply of accommodation in the market that has the same qualities as its supply. These qualities would include:

- types of accommodation such as single rooms, shared rooms or studios
- the accommodation is available for long term occupancy
- the quality of the fittings of the room
- whether the rooms are serviced daily, weekly or not at all, and
- the amenities or facilities that are provided in the supply of accommodation – these need to be separate from those available to all students attending the university whether residential or external.

293. Charities can compare their supply with those made by other charitable institutions or profit making organisations. The charity can use the 'similar supply test' if the 'same supply test' does not apply.

294. There is no requirement for the charity to obtain a professional valuation of its supply by a licensed valuer. The charity can undertake a valuation of its supply by comparing it with other supplies in the market. This should be based on information and evidence available. The general principles explained in the 'Market value guidelines' must be used regardless of whether the charity chooses to obtain a professional valuation. Also, the charity must keep sufficient records of the accommodation with which it compares its supply.

295. A valuation should not be done on the basis of cost or replacement. While the cost or replacement cost at times will be the same as the market value, there will be occasions when the market is depressed or inflated and it may be different. The charity must undertake a market rental value comparison and support this with documentary evidence.

296. If there are genuinely identifiable differences in the quality of the supply the charity makes and the quality of the other supply in the market, the charity must take into account those differences when establishing the market value of its supply.

297. To do this, the charity can make reasonable adjustments to the price of the supply in the market to reflect the superior or inferior quality of the supply it makes. As such, the charity can adjust the price of the supply in the market by doing the following:

- identify the supply in the market and the related price
- identify all differing characteristics shown in the quality of the supply when comparing with the supply the charity makes
- quantify those differing characteristics on a reasonable basis, and
- use the quantified values of those differing characteristics to adjust the price of the supply in the market.

298. The charity must maintain documentary evidence for each of the above steps taken.

299. This process adjusts or modifies the supply in the market so that it has the same quality as that of the charity's supply. The price calculated for the modified or adjusted supply is the market value of the supply the charity makes. This worked out market value must represent an amount a willing but not anxious purchaser is prepared to pay.

300. For example, a certain supply of accommodation in the market has one feature which is clearly of a better or lesser quality than the accommodation supplied by the charity (such as a bathroom). In this case, the charity should work out what the market generally accepts as an appropriate adjustment for this feature and keep documentary evidence to support this adjustment.

301. If an adjustment is made without supporting evidence, the market value will be established without taking into account the adjustment.

302. Some valuation methods are not appropriate for the purposes of working out the market value of accommodation in university residential halls or college. For example:

- adding a premium to reflect a high demand for the particular premises
- adding a premium to compensate for students occupying a room for a 30 or 40 week term
- adding a premium for access to nearby community amenities such as a swimming pool
- adding a premium for the accommodation being located on campus
- including amenities which are available to the wider community such as security for walking to car parks on university campuses, 24 hour access to sporting facilities, and
- including things which are not appropriate to be deemed part of the supply of accommodation.

303. For more examples of this, refer to GSTR 2001/1 *Goods and services tax: supplies that are GST-free for tertiary education courses*, in particular paragraph 156.

304. We consider that these types of adjustments are already part of the market value of accommodation with which the charity would be comparing its supply. The market value has already been adjusted to make provision for those factors so a further adjustment is not appropriate.

305. Market value obtained as a result of a professional valuation or where the supplier undertakes their own market valuation.

306. Some universities operate residential halls or colleges. For the purpose of this section, the term ‘other residential educational facilities’ is used to refer to the following types of residential halls or colleges, those operated by:

- TAFEs and higher education institutions
- charities and are affiliated with universities under the respective statutory provisions of the universities, and
- charities and are affiliated with higher education institutions.

307. Generally, such an operator-supplier charges a student-resident a single fee for supplying the student-resident with accommodation, meals and other things for a period. The period may be a term, a semester or an academic year. For GST purpose, the operator-supplier makes a bundle of supplies to the student-resident for the fee.

308. Higher education institutions that are within the meaning of the *Higher Education Funding Act 1988* are charities and gift deductible entities.

309. TAFEs are gift deductible entities.

310. Charities can apply a range of GST concessions. Some charities making supplies to student-residents of accommodation in university residential halls or colleges and other residential educational facilities have been concerned about working out the market value of a supply of accommodation to a student-resident under the market value guidelines.

311. A supply of accommodation by a charity is GST-free if the consideration received for the supply is less than 75% of the GST-inclusive market value of the supply.

312. A charity must work out the market value of a supply of accommodation. However, the GST law does not require charities to obtain a professional valuation of the supply of accommodation by a licensed valuer. For the purposes of assisting charities to work out the market values, we have developed the Market value guidelines – section B for charities to use.

313. If a charity has not used the ‘Market value guidelines’ appropriately, adjustments may be required in the future.

314. For more information on:

- the GST concessions available for non-profit organisations, refer to Tax basics for non-profit organisations, and
- the market value test, refer to subparagraph 38-250(1)(b)(i) of *A New Tax System (Goods and Services Tax) Act 1999*.

### **Defining market value**

315. We consider that the market value of a thing is the price that would be negotiated between a knowledgeable and willing but not anxious buyer and a knowledgeable and willing but not anxious seller acting at arm’s length in an appropriate market.

### **Defining market rental value**

316. Market rental value has been defined by the National Board of the Australian Institute of Valuers and Land Economists as:

...the estimated amount for which premises should rent, as at the relevant date, between a willing lessor and a willing lessee in an arm length’s transaction, wherein the parties had each acted knowledgeably, prudently, and without compulsion, and having regard to the usual market terms and conditions for leases of similar properties.

**Market value guidelines**

317. When working out the market value of a supply as part of the 'market value guidelines', the charity must apply the following successive tests:

- The charity must work out whether the same supply exists in the market it operates in. This is referred to as the 'same supply test'. If the same supply exists in the market, the price of the supply as defined by the market is the market value that the charity should use.
- If no 'same supply' exists, the charity must then work out whether a similar supply exists in the market it operates in. This is referred to as the 'similar supply test'. If a similar supply exists in the market, the price of the supply as defined by the market is the market value that the charity should use.
- If no same or similar supply exists, the charity may seek approval from the Commissioner of Taxation to use a methodology to work out the market value of the supply. This is referred to as the 'third test'.

318. These tests are successive when working out the market value of a supply. They are not alternative tests. If a charity identifies a same supply in the market, the price charged by the other supplier is the market value of the supply the charity makes. The charity cannot then calculate the market value of the supply it makes by reference to the similar supply test or the third test. We consider that either the same supply test or the similar supply test would generally establish a market value and the third test would be rarely used.

**Record keeping for supplies of accommodation**

319. Charities should keep and maintain records that adequately document the process and information collected in working out the relevant market values. For example, the market values established and the methods used may be documented or minuted in the charity's books of account.

320. This information should be captured in such a way that will enable cross-referencing to accounting statements. It should therefore correspond with what is recorded on the charity's business activity statements.

321. Documentary evidence identifying the accommodation the charity supplies can include:

- address and location of accommodation
- features or amenities of accommodation
- standard or quality of accommodation
- photographs or pamphlets of accommodation types or styles, and
- any other relevant information.

322. Documentary evidence identifying other supplies of accommodation in the market to compare with includes:

- records of rents for the accommodation such as newspaper advertisements, written information from boarding houses or written records of enquiries made with other suppliers
- address and location of accommodation
- features or amenities of accommodation
- standard or quality of accommodation
- photographs or pamphlets of accommodation types or styles, and
- any other relevant information.



323. If a charity has instructed a licensed valuer to provide a professional valuation of the supply the charity makes, a copy of the valuation report.

### **Review of valuation**

324. Charities should monitor the market in which they make the supply to ensure that they will respond promptly to any material changes in the market.

325. Changes in market conditions include, amongst other things:

- suppliers entering or leaving the market
- changes in quality of the supplies as a result of different consumers' expectation
- changes in input costs, and
- changes in prices charged.

326. Input costs include real costs such as direct and indirect costs incurred, depreciation and imputed costs.

### **Specific questions and answers**

#### ***Question 1. If a training course is deemed to be a taxable supply how do you value the tuition and course materials?***

327. If a supply of a training course consists of a supply of tuition and course materials, the fee charged for the training course is the consideration for the supply. As the supply is a taxable supply, the GST payable is 1/11th of the fee.

328. If a charity supplies a training course, the charity can use the 'Cost of supply guidelines – Section A' or the 'Market value guidelines – section B' to determine whether the supply is GST-free.

#### ***Question 2. What are the likely requirements, (to be determined by the ATO) to comply with the 'professional' valuations required for selling real estate under the margin scheme owned by religious, charitable or benevolent organisations at 1 July 2000?***

##### ***What type of valuations will be recognised, and in what details?***

329. If you hold real property at 1 July 2000 you must get a valuation of the property or premises to be able to supply the real property and premises using the margin scheme. Also, special valuation rules apply to construction agreements made before 1 July 2000 for the supply of goods or real property made available after that date.

330. For more information on:

- rules for valuing property under construction as of 1 July 2000, refer to GSTR 2000/14 Goods and services tax: transitional valuation of work-in-progress for head contractors in the building or civil engineering industries
- the requirements for valuations under the margin scheme, refer to:
  - GSTR 2000/21 Goods and services tax: the margin scheme for supplies of real property held prior to 1 July 2000
  - GSTR 2006/7 Goods and services tax: how the margin scheme applies to a supply of real property made on or after 1 December 2005 that was acquired or held before 1 July 2000, and
  - GSTR 2006/8 Goods and services tax: the margin scheme for supplies of real property acquired on or after 1 July 2000

- the methods for valuations, refer to:
  - MSV 2000/1
  - MSV 2000/2
  - MSV 2005/1
  - MSV 2005/2
  - MSV 2005/3.

**Question 3. Charitable organisations that administer Supported Accommodation Assistance Programs (SAAP) offer a number of different services including:**

- **short term accommodation for refuges where rent is less than 50% of the commercial market rent**
- **externally supported accommodation for Crisis Accommodation Program (CAP) funded properties where the rent is 75% of the commercial market rent.**

**How will these different services be treated with respect to GST?**

331. A supply of accommodation by a charity is GST-free if the supply is for consideration that is less than 75% of the market rent.

332. In working out whether a supply of supported accommodation or crisis accommodation is GST-free, charities can use the daily or weekly Benchmark market values of accommodation (see section C) instead of using the Market value guidelines.

**Question 4. Since rent is input taxed can charities claim input tax credits even when the rent is greater than 75% market value?**

333. A supply of residential premises by way of lease, hire or licence is input taxed to the amount they are used predominantly for residential accommodation.

334. If a charity makes the supply for consideration that is less than 75% of the market rent, the supply is GST-free. The charity can claim input tax credits for purchasing things to make the supply.

335. If a charity makes the supply for consideration, that is at or above 75% of the market rent, the supply is input taxed. The charity cannot claim any input tax credits for purchasing things to make the supply.

**Question 5. Community housing rents are either calculated as a percentage of income (usually 25%) or the market rents are driven by local conditions (that is, city rents are higher than country rents for tenants with the same income). How will this be treated for GST purposes?**

336. If a charity supplies community housing for consideration that is less than 75% of the market rent, the supply is GST-free. The charity can claim input tax credits for purchasing things to make the supply.

337. If a charity supplies community housing for consideration that is at or above 75% of the market rent, the supply is input taxed. There is no GST payable on the supply and no input tax credits can be claimed for purchasing things to make the supply.

**Question 6. If a charitable institution, trustee of a charitable fund, gift deductible entity or government school makes supplies of residential accommodation for no consideration, will those supplies be treated as GST-free (under section 38-250) or input taxed (under section 40-35)?**

338. According to section 38-250, a supply of accommodation by a charity is GST-free if the supply is for consideration that is less than 75% of the market rent or less than 75% of the cost of providing the supply.

339. Although section 38-250 specifically mentions consideration and the charity charges no consideration for the supply, however, to give effect to the intent of the section, we consider that supplies of residential accommodation by charities for no consideration will be GST-free.

340. If the supply is a fringe benefit (including an exempt benefit) provided to an employee or their associate, the consideration for the supply will include the services provided by the employee. Consequently, we do not envisage this section applying to such supplies.

**Question 7. Is the supply of accommodation by a church to a religious practitioner GST-free?**

341. The answer to this question depends upon the circumstances in which the accommodation is provided.

342. If the supply is a fringe benefit, the supplier must consider whether the recipient's services represent consideration for the supply.

343. There are a number of different arrangements in which accommodation is provided by Churches to their religious practitioners. The issue of whether the religious practitioners' services are included as consideration for the supply of accommodation is to be worked out on a case by case basis, based on the specific arrangement that exists.

344. In some cases, the Church is obliged to provide accommodation, and in practice provides accommodation, to the religious practitioner regardless of the activities carried out by the religious practitioner. The supply of accommodation is dependent on the recipient's status as a religious practitioner and is not a consequence of the provision of their activities. We accept that the activities of the religious practitioners are not consideration for the provision of the accommodation if the Church provides the accommodation regardless of the nature or range of activities carried out or if no services are provided by the practitioner. If no other consideration is provided, the supply of the accommodation is GST-free. In considering whether the accommodation is provided regardless of the activities of the religious practitioner, we will have regard to the governing rules of the Church and the circumstances in which the accommodation is provided or will cease to be provided.

*Example 1*

345. Under its governing rules, a church is required to provide support to the religious practitioner to enable them to carry out their pastoral duties. This support is provided by way of a stipend and the provision of accommodation.

346. The governing rules provide that the church is required to provide this support to all of its ordained religious practitioners of this denomination, regardless of the nature of the activities they perform or whether, in fact, they perform any activities. In addition, these rules require that the church must continue to provide accommodation to the religious practitioner on retirement for the remainder of their life or in the event of any long term absence from duties as a result of illness.

347. In these circumstances, the services of the religious practitioner are not included as consideration for the supply of the accommodation by the church as the provision of the accommodation is not dependent on the performance of services and the accommodation must be provided even where the religious practitioner does not carry out any activities. Consequently, the consideration for the supply of accommodation for the purposes of applying section 38-250 of the GST Act will be limited to any money or property or other consideration provided by the religious practitioner for the accommodation.

348. If the services of a religious practitioner are provided as consideration for the provision of the accommodation, the value of the services must be taken into account in determining whether section 38-250 applies to the supply of the accommodation.

### *Example 2*

349. The regional governing body of the church issues guidelines which cover matters such as stipends, conditions associated with accepting a call and statements of understanding between the religious practitioner and the church. These guidelines cover all churches of the denomination within a region.

350. The guidelines recommend that the church and the religious practitioner reach terms of agreement before a call is accepted and that this be documented. This statement clarifies the role of the religious practitioner, the terms and conditions of the call, and processes by which the ministry will be conducted in partnership together. The statement will include details such as the duration of the call, the role of the religious practitioner and the practitioner's relationship to the church, the total remuneration and how it is to be packaged, the process for decision-making, review of ministry, and dispute resolution and what happens when the ministry is concluded.

351. The guidelines set out that in calling and inducting a religious practitioner, the church and the religious practitioner enter into an arrangement which invokes particular responsibilities and rights for the parties concerned. The guidelines stress the importance of ensuring that the incoming religious practitioner is aware of what the church expects from the role. Therefore, the terms of agreement should include a role description that lists the main duties and accountabilities in the role.

352. It is recommended that the church conducts on-going reviews of its collective life and ministry. This review will include the manner in which the religious practitioner is exercising the ministry of leadership.

353. A properly constituted special church members meeting can conclude the religious practitioner's call and engagement allowing three months notice. This will occur where the conclusion of the ministry is in the best interests of both the church and the religious practitioner. Examples of where this may occur include where the emphasis or the direction in which the religious practitioner is attempting to lead the church is no longer in accord with that which was agreed when the religious practitioner was called, where the religious practitioner is in conflict with the expectation of the church and this cannot be easily reconciled, and where the religious practitioner no longer has the confidence and support of the church leadership. For serious misconduct, a properly constituted church members' meeting may conclude a religious practitioner's call without notice and with immediate effect.

354. The guidelines provide recommended remuneration levels. The majority of churches pay their religious practitioners based on the recommended levels. However, it is open for the church and the religious practitioner to negotiate a package different to the recommended levels. The guidelines provide a differing recommended stipend depending upon whether a manse is provided or not.

355. Based on the terms of engagement of the religious practitioner in these circumstances, the religious practitioner's services are consideration for the supply of accommodation as there is a sufficient nexus between the two.

356. The acceptance of a call by a religious practitioner results in the entry into an arrangement between the church and religious practitioner that invokes responsibilities and rights for both parties. Therefore, the accommodation is not provided to the religious practitioner merely because of the practitioner's status as it is dependent upon the practitioner carrying out those duties or responsibilities which arise from accepting the call.

357. In valuing the religious practitioner's services, reliance is placed upon GSTR 2001/6. This ruling provides that the test for determining the market value of non-monetary consideration is an objective test.

358. The guidelines recommend a package including total stipend and benefits where a manse is not provided and a lower package where a manse is provided. By recommending that churches pay a lower package in those circumstances where a manse is provided, the regional governing body has effectively identified the value of that component of the religious practitioner's services that represents consideration for the supply of the accommodation.

359. Where, in practice, the church follows the guidelines issued by the regional governing body in relation to the recommended level of religious practitioner's stipends and benefits, we accept that the value of the non-monetary consideration for the supply of accommodation to the religious practitioner for the purposes of subparagraph 38-250(1)(b)(i) is currently the difference in stipend depending upon whether a manse is provided. Therefore, where this is less than 75% of the GST inclusive market value of the accommodation provided by the church, the supply will be GST-free.

360. For more information, refer to GST and non-commercial activity rules for fringe benefits (NAT 7633).

***Question 8. GSTR 2001/3 Goods and services tax: how it applies to supplies of fringe benefits was released in May 2001 explaining the entitlement to input tax credits for acquisitions and importations related to providing fringe benefits. It states that 'consideration' is a broad term that may encompass services provided by employees. A fact sheet GST and non-commercial activity rules for fringe benefits (NAT 7633) provides further information on the application of section 38-250 to the provision of fringe benefits. Religious institutions had until 30 June 2003 to put in place procedures to ensure that these supplies are treated correctly for GST purposes. The principles outlined in the fact sheet will apply to supplies made after 1 July 2003.***

***Will religious institutions be required to make creditable purpose adjustments for purchases made prior to 1 July 2003 as a consequence of the principles outlined in the fact sheet?***

361. Religious institutions will not be required to make adjustments on input tax credits claimed on acquisitions made in the period from 1 July 2000 to 30 June 2003 as a consequence of the principles outlined in the fact sheet. However, adjustments under Division 129 on these acquisitions may still be required in other circumstances, for example, where there has been a change in the conditions attached to the provision of the accommodation.

362. An example of where an adjustment may arise is where a church, which originally provided accommodation on a rent-free basis, introduces a policy whereby the religious practitioner is required to pay a rental charge for the right to occupy the premises. In this situation, where the rental exceeds both 75% of the cost of supplying the accommodation and 75% of the market value of the accommodation, there has been a change in the extent of creditable purpose which may give rise to adjustments under Division 129.

***Question 9. What is the GST impact on rental apartments provided for charitable or public benevolent institution purposes (for example, a visiting medical research fellow for a charitable teaching hospital being provided accommodation in an adjacent related retirement village)?***

363. Generally residential rent is input taxed under section 40-35 and the normal rules for input taxed supplies would apply.

364. Subject to the principles in the fact sheet mentioned in the above question, where the residential accommodation is supplied by a charity for consideration that is less than 75% of the market rent or the cost of supply then the supply of the accommodation would be GST-free.

365. A supply of accommodation in commercial residential premises (for example, a boarding house or a hostel) for consideration is a taxable supply unless section 38-250 applies. Where the supply is long-term accommodation (at least 28 days continuously) and is taxable, the special rules in Division 87 apply unless the supplier chooses not to apply them. These rules have the effect of applying a lower rate than would otherwise apply thus reducing the amount of GST payable.

***Question 10. What are the GST ramifications of a Church owned property that is let to a college for use of education?***

366. Generally, the supply of the church owned property to be used for education purposes would be taxable. However, where the consideration for the supply was less than 50% of the GST inclusive market rent, the supply would be GST-free. The college would be able to claim input tax credits for creditable acquisitions relating to making supplies that would be taxable or GST-free.