

TAX BULLETIN

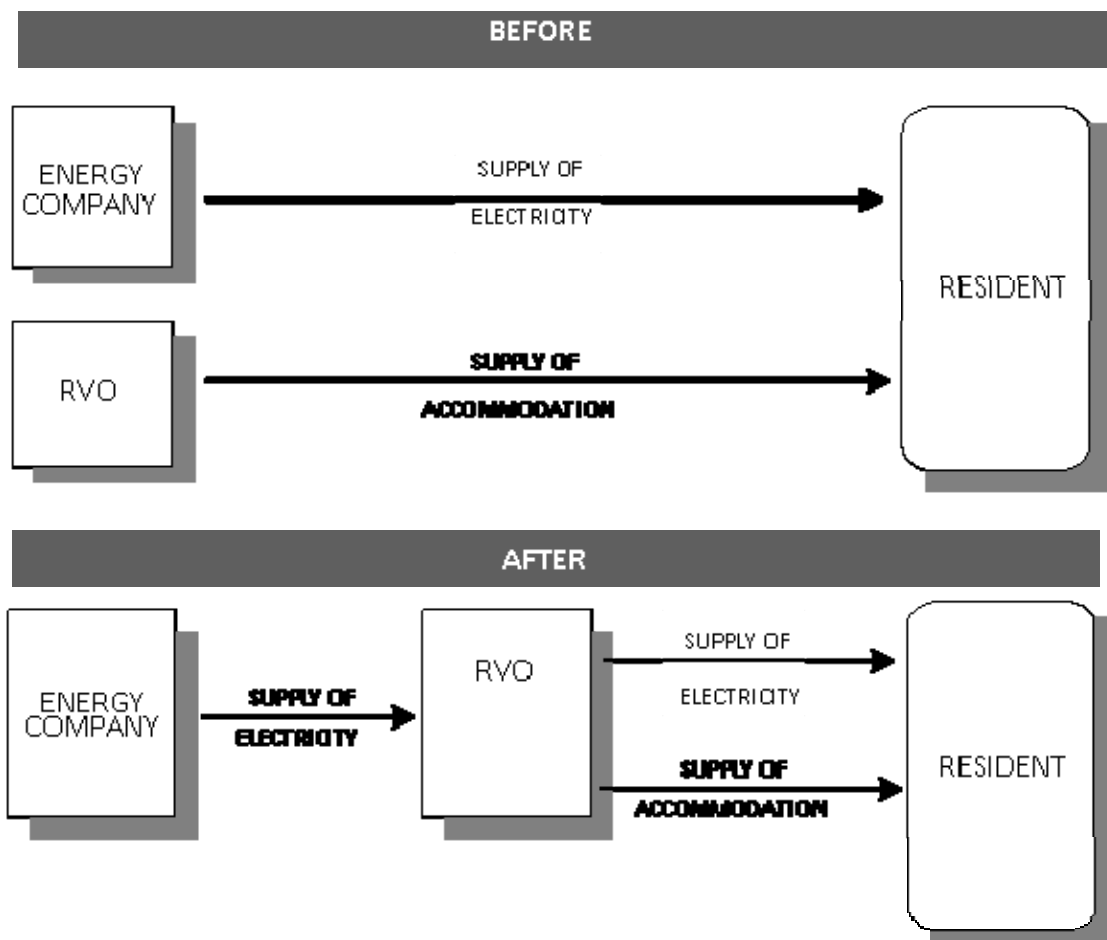
AN UPDATE PUBLICATION FOR OUR CLIENTS

19 November 2010

ATO TARGETS RETIREMENT VILLAGE OPERATORS THAT ON-SELL SERVICES TO RESIDENTS

The Australian Taxation Office (“ATO”) has published a Taxpayer Alert (TA 2010/7) in relation to retirement village operators who on-sell services to their residents in an attempt to claim greater input tax credits.

The Taxpayer Alert refers to an arrangement where a retirement village operator assumes the role of an utility service provider to the residents of the retirement village. Under the arrangement, instead of individual residents directly acquiring the utility services from the utility suppliers, the retirement village operator acquires the services from the utility suppliers for the entire village and then on-supplies those services to the residents at the same price under the lease agreement or similar agreement with each resident. The diagram below illustrates the arrangements targeted by the ATO:



(Source: Australian Taxation Office, Taxpayer Alert TA2010/7)



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Of concern to the ATO is that the arrangement may allow retirement village operators to claim input tax credits for certain acquisitions (such as infrastructure costs) on the basis that they relate to the provision of the utility services that are taxable supplies, in circumstances where these input tax credits may not have otherwise been available if the arrangement was not in place.

Further, by treating these supplies as taxable supplies, a retirement village operator may also claim a credit for a higher percentage of the expenditure they have incurred in operating the retirement village via GST adjustments.

The ATO states that the arrangements could also apply to other services in addition to the supply of utilities.

The ATO is currently reviewing these arrangements and is considering whether the arrangements could be subject to the anti-avoidance provisions in the GST Act as well as the promoter of tax exploitation schemes provisions in the Taxation Administration Act.

We recommend that any retirement village operators that have these types of arrangements in place with their residents review their GST position in light of the Taxpayer Alert.

Please contact your regular Pitcher Partners tax contact or Craig Whatman on (03) 8610 5617 for further details on the issues raised in this Tax Bulletin.

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