

APPENDIX 3 –

ATEC – SUGGESTED AMENDMENTS

1. ATEC's alternative model 1

Proposed amendment to Division 40:

40-XX Holidays sold to non-residents

The supply of a right to a holiday is input taxed if;

- (a) the supply is to an entity which is not carrying on an enterprise in Australia and;
- (b) no declaration is received from that entity confirming that the supply should be treated as taxable.

For the purposes of this sub section, the supply of a right to a holiday means:

- (a) the supply of a right to transport, accommodation, meals, attractions, and other holiday related supplies where the supplier of the right is an entity which will not be making the underlying supplies to which the right relates, and
- (b) the underlying rights will be ultimately used for the purposes of recreation or entertainment not connected with the carrying on of an enterprise.

Proposed amendment to Section 11-15

An acquisition is not treated, for the purposes of paragraph 2 (a), as relating to the making of supplies that would be input taxed if;

- (a) the only reason it would (apart from this subsection) be so treated is because it relates to making holiday supplies; and
- (b) the acquisition is not an acquisition cost directly related to the acquisition of holiday rights which are input taxed pursuant to Division 40 XX.

Consequential amendments:

ATEC acknowledged that the model and definitional framework needed to be 'worked through'. ATEC put forward the following suggestions for consequential amendments:

Section 11-15 (3)- this section requires amendment to ensure that non-resident enterprises are not otherwise excluded from the model because the supplies that they make are made through an enterprise which is not carried on in Australia;

Section 9-25 (5)- this section requires amendment to ensure that the supply of a holiday right is defined as connected with Australia. Failure to do so would render the Input Tax amendment inoperative; and,

Section 9-30 (4)- requires modification to extend restriction to the supply of holiday rights in addition to the existing restriction relating to financial supplies.

2. ATEC's alternative model 2

Proposed amendment to Division 40:

40-XX Holidays sold to non-residents

(1) The supply of a right to a holiday is input taxed if;

(a) the supply is to an entity which is not carrying on an enterprise in Australia and;

(b) no declaration is received from that entity confirming that the supply should be treated as taxable, and

(c) the entity making the supply of the right to a holiday has not chosen to have its supplies of such rights treated as taxable supplies.

(2) An entity which chooses to have its supplies treated as taxable pursuant to sub paragraph (1) cannot revoke this choice within 12 months after the day on which it made this choice.

For the purposes of this sub section, the supply of a right to a holiday means:

(a) the supply of a right to transport, accommodation, meals, attractions, and other holiday related supplies where the supplier of the right is an entity which will not be making the underlying supplies to which the right relates.