



**SUBMISSION TO THE PRODUCTIVITY COMMISSION
DISABILITY AND SUPPORT INQUIRY**

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Request

Schedule 3 of the GST Act be reviewed to more fairly exempt people with disabilities and their carers from GST for medical aides and appliances

Introduction:

Errine Adaptive Clothing is a Tasmanian company that specialises in designing and manufacturing disability clothing. The founder Jane Thomasson identified the disadvantage and difficulties people with a disability encounter on a daily basis during when getting dressed and undressed.

The founder also observed people with a disability require very different clothing to people without a disability for basic comfort, ease of access, and personal hygiene and medical needs:

- a) Certain medical conditions - for example chronic incontinence may require frequent removal of pants and undergarments. This can be difficult in situations of 'urgency' particularly for anyone who struggles with buttons or zippers with loss of fine motor skills.
The difficulties and struggles with regular clothing can lead to high levels of anxiety, loss of confidence and self esteem, and avoidance of leaving the home, which can then lead to social isolation.
- b) Medical devices – conventional clothing does not accommodate for requirements such as colostomy bags, catheters, large incontinence pads, and other essential devices, with the individual often forced to purchase oversized garments to accommodate them. Conventional clothing does not typically accommodate easy and regular access to such devices without the full removal of the garment.
- c) Seated position – Conventional clothing does not take into account the comfort issues for people with loss of mobility who rely on wheelchairs or are otherwise confined to the seated position.

As a manufacturer of clothing designed specifically for people with a disability, the Director unsuccessfully applied for a private ruling for the clothing to be GST exempt.

As a provider of disability specific products the company feels Schedule 3 of the GST Act does not adequately cover a range of essential products and services people with a disability require, and also feels the current process for amending the 'Medical aids and appliances' listed within Schedule 3 of the GST Act is outdated and neglected, and as such it has a keen interest in the matters being considered by the Productivity Commission in its Disability Care and Support inquiry.

Background

Goods and Services Tax

The Goods and Services Tax (GST) in Australia was introduced by the Federal Government with the 'A New Tax System (Goods and Services Tax) Act 1999', taking effect from July 1 2000.

GST-free supplies of medical aids and appliances are dealt with in section 38-45 of Schedule 3 of the GST Act.

Under Schedule 3, medical aids and appliances must meet the following three conditions to be GST-free:

- *listed in schedule 3 to the GST Act or in schedule 3 to the GST regulations*
- *specifically designed for people with an illness or disability*
- *not widely used by people without an illness or a disability.*

There are many products and services that people with a disability require specifically for or due to their disability, that are also used widely by other people without an illness or a disability, and these products and services therefore attract GST, consequently adding additional costs to individuals with a disability and their (family) carers.

Background

Repairs to GST-free medical aids and appliances

The Act supplies the following conditions that must be met to obtain repairs to GST free products and services:

If you repair a GST-free medical aid or appliance using a part that is specifically designed, any incidental labour or incidental parts that are not specifically designed are also GST-free.

*The following parts or labour you supply to repair GST-free medical aids or appliances are **taxable**:*

- *parts that are not specifically designed as spare parts for the GST-free medical aid or appliance and which are not merely incidental to the supply of GST-free specifically designed spare parts*
- *consumables, such as oil or glue, used in the repair or service that are not merely incidental to the supply of GST-free specifically designed spare parts*
- *specifically designed spare parts for the GST-free medical aid or appliance that are merely incidental to the supply of the labour component of the repair service (that is, where the main supply is labour)*
- *the labour component of the repair service where it is not merely incidental to the supply of a specifically designed spare part for the GST-free medical aid or appliance.*

There are many products and services that are essential for people with a disability that are not GST exempt under the current conditions of Schedule 3 of the Act, and many of these products and services are vital to meet basic and essential needs every human being is entitled to, and in some cases are essential to survive.

There are also inconsistencies within the list of medical aides and appliances.

Examples

a) A young woman with a disability who requires a wheelchair for mobilising needs a ramp to enable her access into her own home, and needs modifications to the bathroom door to enable access for showering and toileting. Ramps and home renovations are ‘used widely by other people without a disability’ so are subject to GST, yet this individual requires these goods and services to gain entry and exit to her own home, and access to the bathroom to meet her personal care needs.

In the ‘Medical Aid and Appliances’ list of Schedule 3 of the GST Act, category ‘Home modifications for people with disabilities’ only includes the following two products or services as GST-free:

51 bidet/bidet toilet attachments

52 special door fittings relating to the disability of a particular person

b) A youth with a severe spinal cord injury is unable to eat solid foods and must consume pureed foods through a straw. Straws are ‘used widely by other people without a disability’ so are subject to GST, yet this individual requires the use of straws to eat and to survive on a daily basis.

In the ‘Medical Aid and Appliances’ list of Schedule 3 of the GST Act, the category ‘Daily living for people with disabilities’ only includes the following products or services as GST-free:

28 customised eating equipment for people with disabilities

29 customised toothbrushes for people with disabilities

30 dentures and artificial teeth

31 environmental control units designed for the disability of a particular person

32 computer modifications required for people with disabilities

33 "medical alert" devices

c) An individual purchases a wheelchair that is GST free. One of the wheels breaks and needs replacing. The wheels are ‘used widely by other people without a disability’ (such as bicycles) so are subject to GST

In the ‘Medical Aid and Appliances’ list of Schedule 3 of the GST Act, the category ‘Mobility of people with disabilities-physical: wheelchairs and accessories’ only includes the following products or services as GST-free:

c) continued

105 wheelchairs, motorised wheelchairs, scooters, tricycles, spinal carriages and other goods for the carriage of people with disabilities

106 accessories associated with wheelchairs, motorised wheelchairs, scooters, tricycles, spinal carriages and other goods for the carriage of people with disabilities

107 battery chargers for wheelchairs, scooters, tricycles, spinal carriages and other goods for the carriage of people with disabilities

108 stair-aid apparatuses designed for carrying people with disabilities in wheelchairs up or down stairs

d) An elderly man requires the assistance of a (personal or professional) carer to get dressed each day. Standard clothing is difficult and painful to get on and off, his severe arthritis and Parkinsons Disease have left him unable to raise his arms or bend his neck. Adaptive (modified) clothing is available to remove the pain and struggles associated with such conditions, but the 'Medical Aids and Appliances' list' does not accommodate for disability specific clothing so the specialist clothing incurs GST.

e) Bowel stimulants or stool softeners are 'used widely by people without a disability' so are subject to GST, yet some individuals with certain life long illnesses or disabilities are prone to chronic and at times severe bowel irregularities, and require such products on a daily basis, possibly for the rest of their lives, to maintain essential normal bowel function.

f) Skin care products are 'used widely by people without a disability' so these products attract GST. For a person with reduced mobility, poor circulation, or chronic incontinence for example, skin care products are a necessity to maintain skin integrity, to reduce the potential for pressure sores, or prevent other complications common to the skin when the individuals system is compromised.

g) Chair pads and cushions are 'used widely by people without a disability' so are subject to GST. Individuals with loss of mobility that regularly use a wheelchair, or those who are confined to bed as a result of a long term illness, for example, will often require chair pads or cushions as an essential every day item.

Recommendation 1:

Schedule 3 of the GST Act be reviewed and amended to better meet the needs and relieve the financial burdens currently experienced by people with a disability, based on a similar Tax exempt model used by HM Revenue & Customs (HMRC) in the United Kingdom (UK).

The HMRC uses a model that covers both disability specific products and services, and covers the person with a disability for those products or services that do not meet the criteria for tax exemption as a disability specific product.

For purchasing products or services that are not GST exempt the HMRC has implemented the following conditions for tax free purchases:

- *The customer is eligible to purchase at a zero tax rate*
- *The goods are for the personal or domestic use of the customer*
- *The goods are eligible to be supplied at zero rate*

Goods are eligible to be purchased at a zero rate of tax when:

- *The customer is eligible to purchase goods at zero rate*
- *The goods are for the personal or domestic use of the customer*
- *The goods and services are eligible to be provided at zero rate*

The customer in the UK completes a personal declaration at the point of purchase to receive the goods tax free.

Recommendation 2:

An overseeing body is established to immediately and regularly review, amend, update and oversee Schedule 3 of the GST Act.

It has been nearly eleven years since the introduction of the GST Act. New products regularly enter the market to help improve the lives of people with a disability and they are not covered by Schedule 3 of the GST Act.

The current process for having disability specific products included in Schedule 3 of the Act is a long and lengthy process with no direct entry point for submissions, nor any 'body' to regularly review and amend the Schedule.

The current process is to apply for a private ruling through the Australian Taxation Office (ATO), but if the products or services are not covered by Schedule 3 of the GST Act the ATO are powerless to allocate GST exemption to products and services that are obviously specifically manufactured for people with a disability, such is the case with the disability clothing manufactured by Errine Adaptive Clothing.

Failing this, individuals must then take their request to Parliament, with no priority given to such requests, and no particular contact person to make such requests to. Individuals or organisations must approach their local Member of Parliament to seek their support in getting the request heard in parliament, with very little success to date, despite the attempts of several supportive MPs.

COST CONSIDERATIONS

Though referring to appropriate supports, the national disability long-term care and support scheme draft document states *'the current disability support system is underfunded, unfair, fragmented, and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports'*, and *'early intervention can potentially improve outcomes for persons with a disability as well as yield cost savings for the National Disability Insurance Scheme (NDIS) and the wider community'*. These very relevant points could also be said for the current GST Act and the inability for people to access adequate products and services due to the additional costs of GST.

To have doorways made wider or have ramps into homes installed, the costs can run into the thousands, and will therefore incur additional thousands of dollars in GST. For able bodied people these products and services are a choice, for people with a disability it can mean difference between independence or moving into supported accommodation, which inevitably costs the government additional tens of thousands of dollars per resident, and adds more demand for residential care facility beds.

Making products and services more affordable in effect improves outcomes for people with a disability. This type of financial assistance would not require additional funds to be allocated, and though it would reduce revenue for the Government and the states, it would generate greater costs savings by:

EXAMPLES

- a) enabling people to remain in their own homes and out of residential care facilities
- b) reducing secondary costs, for example, disability clothing could mean reduced pain management costs, or affording a new wheel for a broken wheelchair could eliminate the need to have home care visits to assist with mobility
- c) Relieving carers of additional tasks that ultimately lead to poorer health or exhaustion of the carer, and a resulting increased need in respite care, or again, permanent residential care
- d) reduced General Practitioner and other medical costs, for example, if a person was unable to afford repeat and ongoing purchases of anti-bacterial wipes and sterile gloves to manage a permanent indwelling catheter (such as a person with a spinal cord injury that has lost all bladder muscle control), that person will be at high risk of contracting urinary tract and/or bladder infections

SUMMARY

The additional benefits of such a system would/could include (but not limited to):

- a) Improved access for people with a disability
- b) Improved social inclusion for people with a disability
- c) Improved independence for people with a disability
- d) Improved quality of life for people with a disability
- e) Improved quality of life for carers

A governing body established with a panel of relevant stakeholders and expertise, whose purpose was to continually review and update Schedule 3 of the Act, would not only facilitate a necessary and currently inadequate process for a vital component of the GST Act, but would also provide a direct channel for submissions and requests with more timely reviews, and would certainly contribute to improving the quality of life for people with a disability.
