

Mr David Petherick
Chief Executive Officer
Australian Camps Association

Our Ref
PB/RB 13/2568
Your Ref

Date
27 November 2013

By email: dpetherick@auscamps.asn.au

Dear David

GST IMPLICATIONS OF CAMP CANCELLATION POLICY

We refer to our discussions on 21 November 2013.

In those discussions you clarified that the advice sought is in relation to the GST implications of the proposed cancellation policy in a format in which it could be circulated to the camp business owners.

Our advice covers both camps operating on a cash basis and an accruals basis for GST purposes. Broadly, under the cash basis, GST is only payable (or an input tax credit claimable) on amounts actually received (or paid), whereas with accruals basis, GST is payable (or an input tax credit claimable) on the entire consideration (for the transaction) when either any amount is received (or paid) or an invoice is issued (whichever occurs first).

The 'Deposit' under the Sample Booking Application Form would in our view be characterised as a deposit held as security for the setting aside of the camp site for the relevant period. A security deposit does not trigger GST until the time the contract is performed and consideration is paid or the deposit is forfeited.¹

Cancellation Policy

In summary, we understand the Cancellation Policy is intended to operate as follows:

- If a booking is cancelled before 3 months prior to the occupancy date and is not re-booked, the customer forfeits the deposit in full (**Cancellation Scenario 1**).
- If a booking is cancelled before 3 months prior to the occupancy date and another booking is made within 12 months, 10% of the deposit will be charged as an administration fee (**Administration Fee**) for the re-booking and the remaining 90% of the deposit will be contributed towards the deposit for the new booking (**Cancellation Scenario 2**).

¹ Division 99, A New Tax System (Goods and Services Tax) Act 1999; GSTR 2006/2.

- If a booking is cancelled within 3 months prior to the occupancy date, regardless of whether a new booking is made, the customer is to be charged a minimum of 75% of the 'Minimum Charge' (**Minimum Charge**) (which will incorporate the deposit already paid) (**Cancellation Scenario 3**).
- If under Cancellation Scenario 3, the camp owner is able to make a replacement booking, the Minimum Charge will be refunded in full or in part depending on the value of the new booking (**Cancellation Scenario 4**).

On this basis, we attach a revised version of the Cancellation Policy with further amendments on page 6 only.

Please let us know if our understanding of the Cancellation Policy is not correct or if the revised version is not in accordance with your instructions as it may materially affect our advice.

Summary of the GST implications

	Scenario	GST implications if camp operating on an <u>Accruals Basis</u>	GST implications if camp operating on a <u>Cash Basis</u>
1	No cancellation <ul style="list-style-type: none"> • Deposit paid • Balance payment made in full on occupancy date 	Remit GST in the Business Activity Statement (BAS) period in which the earlier of the following occurs: <ul style="list-style-type: none"> • the balance payment is received; and • the invoice is issued. 	Remit GST in the BAS period in which the balance payment is received.
2	Cancellation Scenario 1 <ul style="list-style-type: none"> • Deposit paid • Booking is cancelled before 3 months prior to the occupancy date • Customer does not re-book • Customer forfeits the deposit (under the terms of the contract) 	Remit GST in the BAS period in which the cancellation occurs.	Remit GST in the BAS period in which the cancellation occurs.
3	Cancellation Scenario 2 <ul style="list-style-type: none"> • Deposit paid • Booking is cancelled before 3 months prior to the occupancy date • Customer re-books • Customer is charged the Administration Fee • The remaining 90% of the deposit forms part of the deposit for the new booking and is accounted for accordingly. 	Remit GST in the BAS period in which the cancellation occurs (as payment of the Administration Fee is taken to be received at that time under the terms of the contract).	Remit GST in the BAS period in which the cancellation occurs (as payment of the Administration Fee is taken to be received at that time under the terms of the contract).

	Scenario	GST implications if camp operating on an <u>Accruals Basis</u>	GST implications if camp operating on a <u>Cash Basis</u>
4	<p>Cancellation Scenario 3</p> <ul style="list-style-type: none"> • Deposit paid • Booking is cancelled within 3 months prior to the occupancy date • Customer is charged the Minimum Charge (which takes into account the deposit paid). 	<p>Remit GST in the BAS period in which the earlier of the following occurs:</p> <ul style="list-style-type: none"> • the customer's credit card is charged for the Minimum Charge (if authority is given by customer); and • the invoice for the Minimum Charge is issued. 	<p>Remit GST in the BAS period in which payment for the Minimum Charge is made by credit card (if authority is given by customer) or by other means.</p>
5	<p>Cancellation Scenario 4</p> <ul style="list-style-type: none"> • Deposit paid • Booking is cancelled within 3 months prior to the occupancy date • Customer is charged the Minimum Charge (which takes into account the deposit paid) • At a later time, all or a part of the Minimum Charge is refunded (Returned Minimum Charge) 	<p>Same BAS Period</p> <p>When the cancellation occurs, the owner is required to remit GST in the BAS period (BAS Period 1) in which the earlier of the following occurs:</p> <ul style="list-style-type: none"> • the customer's credit card is charged for the Minimum Charge (if authority is given by the customer); and • the invoice for the Minimum Charge is issued. <p>If the earlier of:</p> <ul style="list-style-type: none"> • the refund of the Returned Minimum Charge is made; or • a credit note is issued <p>in BAS Period 1, then the owner is required to remit the balance (ie, Minimum Charge less Returned Minimum Charge) in BAS Period 1.</p> <p>Different BAS Period</p> <p>If the earlier of:</p> <ul style="list-style-type: none"> • the refund of the Returned Minimum Charge is made; or • a credit note is issued <p>in a subsequent BAS period (BAS Period 2), then the owner is required to:</p> <ul style="list-style-type: none"> • remit the GST on the Minimum Charge in BAS Period 1; and • make an adjustment in relation to the GST on the refund of the Returned Minimum Charge in BAS Period 2. 	<p>Same BAS Period</p> <p>When the cancellation occurs, the owner is required to remit GST in the BAS Period (BAS Period 1) in which payment for the Minimum Charge is made.</p> <p>If the refund of the Returned Minimum Charge is made in BAS Period 1, then the owner is required to remit the balance (ie, Minimum Charge less Returned Minimum Charge) in BAS Period 1.</p> <p>Different BAS Period</p> <p>If the refund of the Returned Minimum Charge occurs in a subsequent BAS Period (BAS Period 2), then the owner is required to:</p> <ul style="list-style-type: none"> • remit the GST on the Minimum Charge in BAS Period 1; and • make an adjustment in relation to the GST on the Returned Minimum Charge in BAS Period 2.

In circumstances where a camp owner has several cases where the Minimum Charge is applied in a BAS period and refunded in a subsequent BAS period, the Cancellation Policy could prove onerous from a GST administration perspective.

In addition camp owners that operate on the accruals basis for GST purposes should issue compliant tax invoices for the imposition of the Administration Charge and the Minimum Charge as well as a credit note for a Refunded Minimum Charge.

Yours faithfully
MOORES LEGAL



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Enclosure

Please note that we have discontinued our DX facility