

CONSULTATION > OFFICIALS' ISSUES PAPER

# Current GST issues

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An officials' issues paper



**Inland Revenue**  
Te Tari Taake

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## Making a submission

Inland Revenue invites submissions on the issues raised in this document, including the specific questions asked and any other issues relevant for officials to consider. A complete list of these questions can be found in the Appendix to this issues paper.

Include in your submission a brief summary of the major points and recommendations you have made. Please indicate if officials from Inland Revenue can contact you to discuss the points raised, if required.

The closing date for submissions is 29 June 2026.

### Submissions can be made:

- by email to [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz) with "Current GST issues" in the subject line, or
- by post to:

Current GST issues  
C/- Deputy Commissioner, Policy  
Inland Revenue Department  
PO Box 2198  
Wellington 6140

### Privacy of submissions

Submissions may be requested under the Official Information Act 1982. Please clearly indicate in your submission if you consider that any information should be withheld on the grounds of privacy, or for any other reason. Contact information such as an address, email, and phone number for submissions from individuals will be withheld. Whether any information is withheld will be determined using the Official Information Act 1982.

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## Chapter 1 – Introduction

- 1.1 Goods and services tax (GST) is a tax on final consumption in New Zealand. Consistent with New Zealand’s broad-based tax policy settings, GST is imposed at a single rate of 15% across a wide range of goods and services with few exceptions.
- 1.2 While the GST system generally works well, a number of issues have been identified where the legislation produces outcomes that do not reflect the underlying policy intent or where technical changes could improve the way the system operates. Addressing these issues would improve the certainty, efficiency, integrity and fairness of the GST rules.
- 1.3 A number of these issues are discussed in this paper, and possible solutions suggested.
- 1.4 All legislative references in this issues paper are to the Goods and Services Tax Act 1985 (GST Act) unless noted.

### Summary of issues, options and proposals

- 1.5 Officials are seeking public feedback on the issues set out in this paper. The table summarises the topics, options and proposals.

Chapter and topic	Summary
Chapter 2 – Dwellings and commercial dwellings	Seeks feedback on whether the definitions of “dwelling” and “commercial dwelling” could be improved to provide more certain and simpler outcomes and suggests various possible options.
Chapter 3 – Electricity exported to grid by residential premises	Proposes to zero rate supplies of surplus solar-generated electricity exported from dwellings by GST-registered account holders to electricity retailers.
Chapter 4 – Cross-border issues	Seeks feedback on options for ensuring that a non-resident is not treated as a New Zealand resident for GST purposes just because they or their employee perform work at a client’s premises in New Zealand; and excluding certain zero-rated supplies from the GST registration threshold.
Chapter 5 – Correcting errors and inaccuracies	Proposes a more coherent framework for correcting errors and inaccuracies in GST returns to resolve problems with the current rules.  Also proposes to align refund periods for overpaid GST with those applying for other tax types and the time bar for increasing assessments.

Chapter and topic	Summary
Chapter 6 – Miscellaneous issues	<p>Other technical changes may be required to ensure the GST rules work as intended. Options explored relate to:</p> <ul style="list-style-type: none"> <li>▪ input tax deductions for goods and services acquired before registration, including goods or services with a value of \$10,000 or less</li> <li>▪ introducing a separate GST group registration that is distinct from any member’s IRD number</li> <li>▪ time of supply when an invoice has been issued or a payment has been received but the total amount of consideration is not yet known</li> <li>▪ the GST treatment of a supply of an interest in an unincorporated body.</li> </ul>
Chapter 7 – Modernising the GST Act	Seeks feedback on potential structural changes to the GST Act to improve its usability.
Chapter 8 – International developments: Business event services supplied to non-resident businesses	Seeks feedback on potential options for zero-rating certain services related to business events in New Zealand (such as conferences and conventions) when those services are supplied to non-resident businesses.
Chapter 9 – Other international developments	Discusses selected international developments in GST/VAT administration, namely e-invoicing and transaction level reporting, and increasing filing frequency for high-risk taxpayers.

## Treaty of Waitangi considerations

- 1.6 The Government’s responsibilities under Te Tiriti o Waitangi – the Treaty of Waitangi (Treaty) require that Treaty interests are identified and, where relevant, protected when developing tax policy.
- 1.7 Officials acknowledge there are a variety of Treaty interests in the tax system generally. For the purposes of this issues paper, we consider Māori interests are most directly engaged where policy proposals or options affect housing arrangements on whenua Māori or within Māori collective housing settings (including papakāinga and kaumātua housing). Chapter 2 discusses these issues from [2.77] onwards.
- 1.8 We are interested to hear from Māori about how these housing arrangements may intersect with GST settings. We are also interested to hear from Māori on any other issues or proposals canvassed by this issues paper that may affect Māori interests.

## Chapter 2 – Dwellings and commercial dwellings

### Overview

- 2.1 To ensure the GST system does not favour owner-occupied housing over renting a house, accommodation provided in a dwelling is exempt from GST. Accommodation provided in a commercial dwelling (such as a hotel, motel, homestay, inn, hostel, boarding house, camping ground, rest home, or a serviced apartment meeting certain criteria) is taxable.
- 2.2 While most types of accommodation services are clearly only exempt supplies in a dwelling or only taxable supplies in a commercial dwelling, there are some forms of accommodation where the GST treatment may be unclear. In addition, the current “dwelling” and “commercial dwelling” definitions may not always lead to the intended or correct policy outcomes for certain supplies of accommodation.
- 2.3 This chapter considers these scenarios and invites submissions on whether the “dwelling” and “commercial dwelling” definitions could be improved to provide more certain and simpler GST outcomes that are also aligned with the policy intention. This follows previous public consultation from 2022 on possible changes to these definitions.
- 2.4 The possible changes suggested this time are narrower than was suggested in 2022 and are intended to clarify specific areas where the current definitions may be causing complexity and uncertainty, namely transitional housing and self-contained student accommodation.
- 2.5 The main issue under consideration is the requirement in the “dwelling” definition for the occupant to have quiet enjoyment “as that term is used in section 38 of the Residential Tenancies Act 1986”. Because of the requirement for quiet enjoyment, the “dwelling” definition might currently be too narrow, resulting in some forms of accommodation that should be GST-exempt instead being taxable.

### Current law

- 2.6 “Dwelling” is defined in the Goods and Services Tax Act 1985 (GST Act) as premises:
  - that the person occupies or it can reasonably be foreseen that the person will occupy as their principal place of residence, and
  - in relation to which the person has quiet enjoyment.
- 2.7 The above definition uses the definitions of “premises” and “quiet enjoyment” in sections 2 and 38 of the Residential Tenancies Act 1986 (RTA) respectively. The definition also excludes a commercial dwelling.
- 2.8 “Commercial dwelling” is defined as:
  - a hotel, motel, homestay, farmstay, bed and breakfast establishment, inn, hostel, or boarding house

- a serviced apartment managed or operated by a third party for which services in addition to the supply of accommodation are provided and in relation to which a resident does not have quiet enjoyment, as that term is used in section 38 of the RTA
- a convalescent home, nursing home, rest home, or hospice
- a camping ground, or
- premises of a similar kind.

## Problem definition

- 2.9 The boundary between the “dwelling” definition and the “commercial dwelling” definition can in some instances be difficult to determine. There is also an additional category of taxable accommodation that is neither a dwelling nor a commercial dwelling, which can also cause complexity and confusion. Accommodation that fails to meet either of the principal place of residence or quiet enjoyment requirements in the definition of “dwelling” falls into this category (assuming it is not accommodation in a commercial dwelling). An example of this might be short-stay accommodation provided to a guest in a holiday home.
- 2.10 These issues are partly because the definition of “dwelling” is based on the nature of the accommodation services received by the occupant, while the definition of “commercial dwelling” is simply a list of different types of premises.
- 2.11 Many of the current issues arise from the requirement in the definition of “dwelling” that the occupant must have quiet enjoyment as that term is used in section 38 of the RTA. This requirement may be difficult to apply in practice and may lead to some premises that are close substitutes for homes not qualifying as dwellings.

## Background and context

- 2.12 The policy objective is to ensure that forms of accommodation where the premises are used like the occupant’s own home are exempt supplies. When the premises are not used like the occupant’s own home (for example, because they are used for temporary accommodation away from the person’s home, or regular additional services like those typically provided in a hotel are provided, or there is significant ongoing management and control over the premises), the accommodation should instead be a taxable supply.
- 2.13 The “commercial dwelling” definition attempts to achieve this policy intention by listing various types of premises where accommodation is provided that is not sufficiently like living in one’s own home. Meanwhile, the requirements in the “dwelling” definition that the premises are the occupant’s principal place of residence and that the occupant has quiet enjoyment of the premises are an attempt to capture scenarios where the accommodation provided is sufficiently substitutable for one’s own home.
- 2.14 Use of a property like one’s own home generally implies that:
- the accommodation is long term

- the property is the occupant's main place of residence or abode
- the accommodation provider does not provide additional regular services to the occupant like those typically provided in a hotel, and
- the occupant has a relatively high degree of control over how they use the premises, including the ability or right to exclude others from accessing the premises.

2.15 From a policy perspective, accommodation should therefore generally be regarded as not being like the occupant's own home when one or more of the following apply:

- The accommodation is of the type that is usually short term (that is, ordinarily intended to be provided to the recipient for periods of less than 28 days at a time), such as in the case of temporary accommodation provided to a person while they are away from their main home on business or on holiday.
- The supply of the accommodation includes certain regular services, such as when the servicing of units, rooms or common areas is provided as part of the supply. The regular provision of meals or care services as part of the supply is also more characteristic of a commercial establishment or care facility, rather than being like one's own home.
- The premises are operated on a commercial basis (likely at scale), with accommodation generally available to the public and in most cases to numerous people simultaneously (as in, there are typically multiple units, rooms or beds available).

## Issues

- 2.16 Quiet enjoyment in the context of section 38 of the RTA differs from quiet enjoyment provided as a general right under the Property Law Act 2007. Section 38 of the RTA entitles a tenant to have quiet enjoyment of the premises without interruption by the landlord or any other person acting for the landlord. The landlord cannot interfere with the tenant's reasonable peace, comfort and privacy.
- 2.17 This is similar to quiet enjoyment provided as a general right. However, section 38 of the RTA goes even further than what the Property Law Act provides, because it also protects against interruptions by those having superior title to that of the landlord.
- 2.18 Any tenancy covered by the RTA automatically confers a right to quiet enjoyment under section 38 of the RTA, which will satisfy this requirement for the purposes of the "dwelling" definition in the GST Act. However, some categories of accommodation (for example, transitional housing and some student accommodation) are specifically excluded from being covered by the RTA and therefore do not automatically include a right to quiet enjoyment within the meaning of section 38 of that Act.
- 2.19 Accommodation that is excluded from being covered by the RTA might still provide the occupant with a right to quiet enjoyment in terms of section 38, either by the accommodation provider matching the section 38 standard in the tenancy agreement, or by the parties expressly opting in to section 38. This means that in certain circumstances,

premises used to provide accommodation excluded from being covered by the RTA might still be a “dwelling”, assuming the premises are also the occupant’s principal place of residence.

- 2.20 Determining the GST treatment of some excluded types of accommodation based on whether the occupant has a legal right to quiet enjoyment in terms of section 38 of the RTA can therefore be a complicated exercise. Complicating matters further, officials understand there may currently be some confusion as to how the quiet enjoyment test applies. Specifically, there appears to be a lack of understanding of the requirements of the quiet enjoyment test, as well as a misperception that quiet enjoyment under section 38 of the RTA is the same as quiet enjoyment applying as a general right.
- 2.21 In addition to the problems with the quiet enjoyment requirement in the “dwelling” definition, the current definition of “commercial dwelling” requires taxpayers and Inland Revenue to assess whether a particular property fits within the kinds of premises listed in the definition or is “of a similar kind”. Given there is no clear definition of any of the premises listed as commercial dwellings, it can be difficult to determine what features premises “of a similar kind” would have.
- 2.22 Specific scenarios where problems with the quiet enjoyment requirement in the “dwelling” definition may arise, or where the current definition of “commercial dwelling” may be difficult to apply, are considered in more detail below.

## Transitional housing

- 2.23 Transitional and emergency housing are excluded from being covered by the RTA,<sup>1</sup> while social (public) housing is covered by the RTA.
- 2.24 “Social housing” refers to subsidised accommodation provided by registered community housing providers or Kāinga Ora – Homes and Communities when the house being rented out is intended to be the tenant’s long-term home. By contrast, transitional and emergency housing are both temporary forms of accommodation and may involve other types of services being provided.
- 2.25 “Transitional housing” specifically refers to temporary accommodation for individuals and families who do not have anywhere to live and urgently need a place to stay. It also offers tailored wrap-around support to help individuals and families into longer-term housing.
- 2.26 Transitional housing is distinct from emergency housing, which is very short-term accommodation (typically between one and two weeks) funded by Work and Income to help individuals and families in immediate need of housing.
- 2.27 Because social housing is covered by the RTA, the quiet enjoyment requirement in the “dwelling” definition is automatically satisfied for this type of accommodation. This means

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<sup>1</sup> See section 5(1)(y) of the RTA.

that supplies of social housing are always exempt supplies for GST purposes. Because the housing is the tenant's long-term home, officials consider this is an appropriate policy outcome.

- 2.28 The current GST treatment of both transitional and emergency housing is clear if the accommodation is provided in a commercial dwelling such as a hotel, motel, hostel or boarding house (that is, these are taxable supplies). However, it is less clear when provided in the form of a self-contained house that the service provider accepts eligible households into. As outlined above, these forms of accommodation may be either taxable or exempt, depending on whether the contract between the service provider and the household provides a right to quiet enjoyment matching the RTA section 38 standard.
- 2.29 From a policy perspective, officials consider that emergency housing should always be taxable (which it almost always is), given this is intended as very short-term accommodation and is usually provided in commercial dwellings.
- 2.30 Determining the correct treatment of transitional housing from a policy perspective is more nuanced. While this type of accommodation is also temporary, it is for a longer term than emergency housing and will ordinarily be for three months or more (meaning that it is not "temporary or transient accommodation" for the purposes of the RTA, which refers to accommodation provided for less than 28 days). The accommodation is also the household's home or principal place of residence during their stay.
- 2.31 Officials consider that these two factors<sup>2</sup> taken together mean that treating this type of accommodation as exempt is appropriate from a policy perspective (at least when it is provided in a self-contained house or unit, rather than in a commercial dwelling). Officials do not consider that it should be relevant for GST purposes that additional wrap-around support services tend to be included in the supply of accommodation, given the purpose of these services is to support households into longer-term housing. Such services are not similar to those that are ordinarily provided in a commercial dwelling.
- 2.32 However, a problem with the current quiet enjoyment requirement is that transitional housing providers are allowed to include certain conditions in their contracts with households that go beyond the sorts of conditions normally included in a residential tenancy agreement. Such conditions commonly include two-weekly inspections of the premises.
- 2.33 When such conditions are included in the contract, the accommodation provider might be less likely to include a clause in the contract providing the household with a right to quiet enjoyment matching the section 38 standard because these restrictions would be inconsistent with such a right to quiet enjoyment. If the household does not legally have this standard of quiet enjoyment, then the premises is not a "dwelling" as defined in the GST Act. This results in an outcome that the accommodation is taxable rather than exempt.

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<sup>2</sup> That is, the typical length of stay for a transitional housing tenant (household), and the fact that the accommodation is unquestionably the household's principal place of residence during their stay because they have nowhere else to live.

- 2.34 There may also be issues with the quiet enjoyment requirement when a head lessor leases a property used for transitional housing to a transitional housing provider and the transitional housing provider subleases the property to a household.
- 2.35 For the supply by the head lessor to the transitional housing provider to be an exempt supply, the tenant (household) must have quiet enjoyment of the premises within the meaning of section 38 of the RTA. This can cause difficulties because the head lessor may not have the necessary information to determine whether the household has quiet enjoyment.

### **Suggested solution**

- 2.36 To clarify that transitional housing should generally be GST-exempt, officials suggest that certain premises used for this specific type of accommodation could be added as a new category to the definition of "dwelling".
- 2.37 Like the amendment that was made in 2014 to include an independent residential unit in a retirement village or rest home in the "dwelling" definition, officials' suggested approach would override the quiet enjoyment requirement in the definition so that this requirement does not need to be met for the suggested new transitional housing category to apply. This is illustrated in Example 1.
- 2.38 As noted, transitional housing is sometimes provided in commercial dwellings, such as motels and boarding houses. In such cases, the accommodation is currently a taxable supply.<sup>3</sup>
- 2.39 Officials consider the current taxable treatment of transitional housing provided in a commercial dwelling is appropriate, given that longer stays in a commercial dwelling exceeding four weeks are taxed at an effective rate of 9%.<sup>4</sup> The policy intention of this reduced rate is to not tax the accommodation after four weeks but only the other domestic goods and services provided (for example, heating, power and cleaning).<sup>5</sup>
- 2.40 In effect, making transitional housing an exempt supply except when it is provided in a commercial dwelling would mean the suggested new transitional housing category in the "dwelling" definition would only apply when the premises used for transitional housing are a self-contained house, flat or apartment.
- 2.41 Officials invite submissions on this suggested amendment.

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<sup>3</sup> This is because the definition of "commercial dwelling" trumps the "dwelling" definition when the two definitions overlap.

<sup>4</sup> Under section 10(6), the value of the supply of domestic goods and services to an individual is treated as being reduced to 60% of the actual value. This results in an effective GST rate of 9% on the domestic goods and services supplied.

<sup>5</sup> For more information about this "four-week rule", see: "GST – Supplies made to residents of commercial dwellings", *Tax Information Bulletin* Vol 6, No 2 (August 1994): 6.

### **Example 1: Transitional housing with wrap-around support services and two-weekly inspections**

A transitional housing provider (THP) provides transitional housing properties to households. The THP also provides wrap-around support services to the families accommodated in these properties to assist them into longer-term housing and carries out two-weekly inspections of the properties.

The THP does not own the properties but instead leases them from private landlords. Most of these are self-contained houses that the THP provides to single families.

The Housing Agreements for these self-contained houses do not provide households with a right to quiet enjoyment under section 38 of the RTA. Therefore, under existing law, this supply is a taxable supply.

Under officials' suggested approach, because each of the self-contained houses are being used for transitional housing and are the households' principal place of residence during their stay at those properties, all these properties would be dwellings. It makes no difference that the households do not legally have a right to quiet enjoyment within the meaning of section 38 of the RTA because this requirement would not apply under officials' suggested solution in the case of premises used for transitional housing. The supply of any of these properties by the THP to a household would therefore be an exempt supply of accommodation in a dwelling under the suggested approach.

#### **Question for submitters**

Q1. Do you agree with officials' suggestion of adding certain premises (namely, self-contained houses, flats and apartments) used for transitional housing as a new category to the definition of "dwelling"? Would this option be an improvement over the status quo? Why/why not?

## **Self-contained student accommodation**

2.42 Issues with the quiet enjoyment requirement may also arise in relation to certain accommodation provided to tertiary students. In addition, the "commercial dwelling" definition can also cause problems and uncertainty in this area.

2.43 The RTA does not apply in certain instances when premises are used to provide accommodation exclusively for students of one or more tertiary education providers.<sup>6</sup> For the accommodation to be excluded from the RTA, the premises must be owned or operated by a person (referred to as the "accommodation provider") who is either a tertiary education provider or a person who has entered into a formal agreement with each tertiary education provider whose students are accommodated at the premises. Other requirements in relation

<sup>6</sup> See sections 5(1)(h)(ii) and 5B of the RTA.

to house rules and provision of services to students accommodated at the premises also apply under section 5B of the RTA.<sup>7</sup>

- 2.44 Separate to the requirements under section 5B of the RTA, the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 (the Code) requires the accommodation provider to provide pastoral care which includes reserving a right to enter the premises to carry out welfare checks. Further, the Code only applies if the accommodation is subject to section 5B of the RTA.<sup>8</sup> The student therefore might not have quiet enjoyment within the meaning of section 38 of the RTA if the accommodation is student accommodation that is subject to both the Code and section 5B of the RTA.<sup>9</sup>
- 2.45 When section 5B does not apply, the other provisions of the RTA (including section 38) apply unless one of the other specific exclusions from the RTA (in section 5 of that Act) apply. As noted, if the accommodation is covered by the RTA, the occupant automatically has a right to quiet enjoyment as that term is used in section 38.
- 2.46 Accommodation provided to students that is subject to section 5B (and therefore is not covered by the RTA) is diverse. In some cases, the premises are clearly a commercial dwelling because the building is clearly a hostel or boarding house or is similar premises (such as in the case of a traditional student hostel or hall of residence). In this instance, whether the student has quiet enjoyment is not relevant to the GST treatment of the accommodation provided. This is because the “commercial dwelling” definition takes priority over the “dwelling” definition when the two definitions overlap.
- 2.47 In other cases, determining whether the premises are a commercial dwelling or a dwelling (or if they are neither a commercial dwelling nor a dwelling) might not be so obvious. For example, some student accommodation providers rent out self-contained apartments to individual students in a building that includes common areas that the students can use. In these situations, it might not be entirely clear whether the individual apartments are dwellings, or whether the building containing the apartments is a commercial dwelling such as a hostel. This “boundary case” is illustrated in Example 2.

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<sup>7</sup> Namely, the accommodation provider must provide services to the students over and above the services that a landlord must provide under a residential tenancy that is subject to the RTA, and must have in place house rules and take reasonable steps to ensure that students are aware of and have access to the house rules.

<sup>8</sup> For instance, accommodation is not “student accommodation” covered by the Code if the accommodation provider does not have a formal agreement with the tertiary education provider(s), or if the accommodation is not exclusively for students of one or more tertiary education providers but is simultaneously also open to the public. In addition to these exceptions, homestay accommodation provided to tertiary students is not covered by the Code.

<sup>9</sup> This is because the right of the accommodation provider to enter the premises to carry out welfare checks might not be consistent with a right to quiet enjoyment within the meaning of section 38, and therefore the parties might not contract into the section 38 standard.

### **Example 2: Self-catered student accommodation in studio apartment with access to common areas in building**

Burton Milner House is an apartment building that has 250 single occupancy studio apartments that are each rented out to tertiary students enrolled at the local university.

Each studio apartment is rented out for the full academic year (February to December) and is fully self-contained with a single bedroom, bathroom, and kitchenette containing basic cooking facilities.

Burton Milner House has a reception desk, which operates Mondays to Fridays between 9am and 5pm. Services provided by the reception desk include receiving and managing enquiries and maintenance requests from residents.

The building also includes several communal facilities for the residents to use, including a kitchen and dining area, study rooms, laundry, and large lounge area.

Burton Milner House contains several features that are consistent with a commercial dwelling (namely, a hostel or similar premises). These include the extensive communal facilities and services, the scale of operations, and the high level of management and control over the premises.

However, other features of the accommodation provided in Burton Milner House are more consistent with a dwelling. Such features include that the studio apartments are self-contained; the self-catered nature of the accommodation (that is, residents prepare their own meals); and the fact that the accommodation is long term and will likely be a resident's principal place of residence during the period of occupancy.

Due to the configuration of the building and because the definition of "commercial dwelling" trumps the "dwelling" definition when the two definitions overlap, Burton Milner House is a commercial dwelling under the current rules. Therefore, accommodation provided in any of the studio apartments is always taxable, albeit at an effective rate of 9% due to the application of the four-week rule.

- 2.48 There is a policy question as to whether student accommodation that is fully self-contained and self-catered and is not covered by the RTA should be exempt, or if it should instead be taxable. Similar to what officials have suggested in the case of transitional housing, we do not consider that the provision of certain pastoral care services to the student (such as access to counselling, guidance or chaplaincy services, or welfare checks carried out by the accommodation provider), or that house rules put in place to comply with the accommodation provider's pastoral care obligations should on their own necessarily disqualify the accommodation from being exempt.
- 2.49 However, a lot of student accommodation that is excluded from the RTA by section 5B is commercially operated at scale, and will in many cases likely be a commercial dwelling (or part of a commercial dwelling) and therefore be taxable. Given that it is likely most student accommodation that is subject to section 5B is commercially operated at scale (and that

additional services similar to those provided in a commercial dwelling may be provided), officials consider that it is generally appropriate from a policy perspective for most forms of student accommodation not covered by the RTA to be taxable rather than exempt.

### **Suggested solution**

- 2.50 Given the commercially operated or large-scale nature of most forms of student accommodation and the complexities in applying the current definition of “commercial dwelling” in this context, officials consider the simplest option would be to add all premises used for student accommodation that is subject to section 5B of the RTA as a new category to the “commercial dwelling” definition.
- 2.51 We note that one consequence of including all student accommodation that is subject to section 5B of the RTA in the “commercial dwelling” definition is the effective GST rate of 9% for a supply of accommodation in a commercial dwelling for more than four weeks would apply. In the student accommodation context, the premises would almost certainly qualify as a “residential establishment” for the purposes of the four-week rule. This would ensure that entire stays of more than four weeks are taxed at the 9% rate (which, as mentioned, is intended to not tax the accommodation but only the other domestic goods and services provided).
- 2.52 Further, such accommodation would typically be supplied by a GST-registered provider (for example, a university, or a hostel operator or apartment building owner who rents out apartments, rooms or units at scale to students under a formal agreement with a tertiary education provider). Therefore, any adverse compliance cost implications of simply making all student accommodation that is subject to section 5B taxable for GST purposes might be negligible.
- 2.53 One potential criticism of this approach is that it may result in some student accommodation that more closely resembles private dwellings becoming taxable. For example, a university might rent out several self-contained houses or flats that it owns exclusively to students attending the university. Such accommodation might be excluded from being covered by the RTA by section 5B.
- 2.54 When a self-contained house or flat is rented by a tertiary education provider to students, this is likely to be more like an ordinary flatting situation where the occupants prepare their own meals and share the cleaning of the house or flat (rather than cleaning being included in the supply of the accommodation). Such arrangements would also be smaller in scale and likely not operated in a commercial manner in the way that a hall of residence or a high-rise building containing apartments exclusively rented to students and with large communal facilities is.
- 2.55 Officials expect that self-contained houses or flats rented to students are likely a small part of the overall pool of student accommodation that is subject to section 5B of the RTA. Our understanding is that most student accommodation excluded from the RTA by section 5B is

likely already captured by the “commercial dwelling” definition (or is at least similar to certain types of accommodation that would tend to be captured by the definition, for example student accommodation provided in high-rise apartment buildings).

- 2.56 Officials also note that our suggested approach would be consistent with the current treatment of self-contained and self-catered student accommodation provided in a commercial dwelling (like in Example 2), and with the treatment of boarding houses more generally (which are included in the definition of “commercial dwelling”). Officials expect that self-catered student accommodation (even when not provided in a commercial dwelling as currently defined) will in many cases bear a close resemblance with these examples.<sup>10</sup>
- 2.57 Officials invite submissions on this suggested approach of making all student accommodation excluded from the RTA by section 5B taxable by adding this as a new category to the “commercial dwelling” definition. We also welcome any suggestions for other options to clarify the GST treatment of student accommodation that we should consider.

#### **Question for submitters**

- Q2. Do you agree with officials’ suggestion of adding a new student accommodation category to the “commercial dwelling” definition so that all premises used for student accommodation that is subject to section 5B of the RTA would be commercial dwellings? Would this option be an improvement over the status quo? Why/why not?

### **Other potential issues with quiet enjoyment requirement**

- 2.58 Officials are also interested in submitters’ views on whether, as an alternative or in addition to the changes suggested above for transitional housing and student accommodation, other changes might be appropriate or necessary to resolve the current issues created by the quiet enjoyment requirement in the “dwelling” definition.
- 2.59 At this stage, officials do not consider that it would make sense to simply remove the quiet enjoyment requirement in the “dwelling” definition without making any other changes to the “dwelling” and “commercial dwelling” definitions. Doing so would seem to largely restore the position that existed before 2011, which eventually led to the definitions being significantly reformed. Those changes (which included the introduction of the quiet enjoyment requirement into the “dwelling” definition) were largely motivated by concerns that the definition of “dwelling” prior to 2011 applied too broadly.
- 2.60 Officials also consider that (putting aside the specific transitional housing and student accommodation issues) the current quiet enjoyment requirement generally provides the

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<sup>10</sup> For example, a multi-bedroom house or flat rented to tertiary students on a room-by-room basis might look similar to a small boarding house.

appropriate policy outcomes, or at least does not in most cases prevent the correct policy outcome from being attained. However, officials are interested in submitters' views on whether there are other problems created by the quiet enjoyment requirement that are not identified in this chapter, and whether more significant reform in relation to the quiet enjoyment requirement (other than the changes suggested above for transitional housing and student accommodation) is needed.

- 2.61 Officials suggest that, regardless of whatever changes are ultimately progressed as policy proposals, paragraph (b)(iii) in the "dwelling" definition in section 2(1) of the GST Act (which applies to a residential unit in a retirement village or rest home when the consideration for the supply of accommodation in the unit is for the right to occupy the unit) should be retained to provide certainty that the existing policy settings for retirement villages would not be affected. This would be consistent with feedback received from earlier public consultation on the "dwelling" and "commercial dwelling" definitions, which requested that those policy settings be retained.

#### Questions for submitters

- Q3. Are there other issues or uncertainties that arise due to the quiet enjoyment requirement in the "dwelling" definition that are not identified in this chapter and that you think should be considered? If there are, briefly explain what these issues are. Are further targeted changes to either of the "dwelling" or "commercial dwelling" definitions necessary to address these issues?
- Q4. Do you think that more wide-ranging changes to the quiet enjoyment requirement beyond the targeted changes suggested above for transitional housing and student accommodation (for example, repealing the quiet enjoyment requirement or replacing it with an alternative test) are necessary or justified? If yes, why, and what alternative approach would you suggest?

### Clarifying "commercial dwelling" definition

- 2.62 Officials also invite submissions on whether changes can or should be made to the definition of "commercial dwelling" to make the definition easier to apply.
- 2.63 We note that previous consultation in 2022<sup>11</sup> on changing from the current definition of "commercial dwelling" to a more general definition describing the key features of taxable "commercial accommodation services" revealed that submitters almost universally preferred retaining the existing "commercial dwelling" definition. Submitters did not consider that replacing the current list of commercial dwellings with a more general definition would be

<sup>11</sup> Officials' issues paper "GST apportionment and adjustment rules" (March 2022), Chapter 4: Accommodation services supplied in dwellings and commercial dwellings, pp 21–24. Available at: <https://www.taxpolicy.ird.govt.nz/publications/2022/2022-ip-gst-apportionment-rules>.

helpful for taxpayers. Instead, they considered this would likely create new boundary issues and therefore more uncertainty.

### **Possible options**

- 2.64 With this feedback in mind, officials suggest that one option for improving the existing “commercial dwelling” definition might be to add another limb to the existing “catch-all” provision in the definition for “premises of a similar kind”. This would be so the catch-all provision also includes premises (or part of premises) if the supply of accommodation to the occupant includes certain regular services provided on the premises.<sup>12</sup>
- 2.65 Officials suggest the types of regular services that would count for the purposes of this test could be those that are ordinarily provided in at least some of the types of premises already listed in the “commercial dwelling” definition, such as cleaning or meals. To be counted under this test, the services would also have to be provided to the recipient as part of the supply of accommodation services (meaning they are not provided as an optional extra or for a separate amount of consideration).
- 2.66 Alternatively, officials suggest that even if no substantive changes are made to the “commercial dwelling” definition resulting from this review (such as adding a “services-based” test to the catch-all provision as suggested above), minor clarificatory changes could still be made to the existing definition to aid in its interpretation.
- 2.67 Specifically, some wording could be added to the definition (after the list of commercial dwellings and exclusions from the definition) clarifying that accommodation provided in a commercial dwelling generally meets at least one of the two following criteria:
- The accommodation services are of the type ordinarily intended to be provided to the recipient for periods of less than 28 days at a time (as is generally the case for accommodation provided in a hotel, motel, homestay, farmstay, bed and breakfast establishment, inn, or a backpacker hostel).
  - The supply of accommodation includes certain regular services provided to the recipient as part of the supply of accommodation services. The types of regular services that would strongly indicate that the premises are a commercial dwelling include:
    - cleaning
    - meals (as are typically provided in a bed and breakfast establishment or in care facilities listed in paragraph (a)(iii) of the definition, and may also be provided in some hostels or boarding houses)
    - care services, and

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<sup>12</sup> This would not apply when those extra services are purely domestic or private (for example, a dwelling occupied by a family would not become a commercial dwelling because the parents cook meals for their children or clean their rooms and do their laundry).

- services that are often provided to guests in a hotel or motel, such as reception or concierge services, and provision of fresh linen and towels.
- 2.68 The idea is that the addition of such wording may assist taxpayers with understanding what types of premises fit into the categories listed in the “commercial dwelling” definition or are “premises of a similar kind”.
- 2.69 The “certain regular services” test outlined above may also serve as a useful guide for what the “services” referred to in the serviced apartment part of the “commercial dwelling” definition are. Officials consider the types of services that are intended to be counted when considering whether “services in addition to the supply of accommodation” are provided in a serviced apartment managed or operated by a third party are cleaning and other services that are often provided to guests in a hotel.
- 2.70 Officials welcome submitters’ feedback on these suggested options.

#### Questions for submitters

- Q5. What are your views on adding premises (or part of premises) to the catch-all provision in the “commercial dwelling” definition if the supply of accommodation in the premises includes certain regular services? Would this make the “commercial dwelling” definition easier to apply? Why/why not?
- Q6. Do you agree with officials’ alternative suggestion of adding wording to the “commercial dwelling” clarifying that accommodation provided in a commercial dwelling would generally meet at least one of the two criteria outlined at [2.67]? Would adding such wording to the definition be helpful for taxpayers and their advisors? Why/why not?

## Homestays and farmstays

- 2.71 Another issue is that the interaction of the “dwelling” definition with the “commercial dwelling” definition can be difficult to determine in certain scenarios. For example, it may be unclear whether land and buildings is a “dwelling”, a “commercial dwelling”, or a combination of both that requires apportionment.
- 2.72 The 2011 changes to the definition of “dwelling” were specifically aimed at shifting the focus of that definition away from the functional nature of the premises to the nature of the accommodation provided. However, the exclusion in the “dwelling” definition for a commercial dwelling appears to still be focused on the functional nature of the premises (given the focus of the “commercial dwelling” definition is on the functional nature or configuration of the premises). This can result in an outcome where the entire premises is a commercial dwelling, rather than allowing parts of the premises to be individual dwellings.
- 2.73 Officials consider this outcome to be appropriate for most commercial dwellings. In many cases, this provides certainty that the entire premises is within the GST base, with no need for a supplier of accommodation in a commercial dwelling to apportion input tax or consider

whether accommodation supplied to any guest might be exempt. Further, as mentioned, longer stays in a commercial dwelling exceeding four weeks are taxed at a 9% effective rate under the four-week rule.

- 2.74 The specific problem we are concerned about relates to the inclusion of homestays and farmstays in the “commercial dwelling” definition. Homestays and farmstays are fundamentally private dwellings that are used in part for providing taxable accommodation. Therefore, the exclusion of a homestay or farmstay from the “dwelling” definition can create issues when the premises are used to provide commercial accommodation services to guests but are also the main residence or abode of other persons (such as an owner-occupier and their family or residential tenants).

### **Suggested solution**

- 2.75 Officials suggest that the specific issue for homestays and farmstays could be resolved by adding a new exclusion from the “commercial dwelling” definition. The suggested exclusion would provide that in the case of a homestay or farmstay, any part of the premises that meets the definition of “dwelling” in relation to a person occupying that part of the premises is not a commercial dwelling.
- 2.76 Officials welcome submissions on this suggested amendment.

#### **Question for submitters**

Q7. Do you agree with excluding part of a homestay or farmstay from the “commercial dwelling” definition if that part of the premises satisfies the definition of a “dwelling”? Why/why not?

### **Māori housing arrangements**

- 2.77 Māori have interests across the housing continuum, some of which may be impacted by changes to the GST treatment of supplies of accommodation.
- 2.78 Māori interests in this context include housing arrangements on whenua Māori or within Māori collective housing settings (such as papakāinga and kaumātua housing). These interests can involve collective decision-making, tikanga-based rules (including those set out in trust deeds), and legal restrictions or structural features that differ from typical commercial arrangements.
- 2.79 Areas where these interests may intersect with GST settings may include where Māori have unique accommodation arrangements that could benefit from clearer legislative signals. Specific matters we are aware of include:
- Accommodation where the duration of stay can vary (for example, a cabin provided to whānau where their stay may, initially, be intended to be short-term, but then becomes long-term).

- Accommodation on whenua Māori where there may be additional legal and tikanga-based rules governing the use of the land during the course of a whānau's stay (for example, papakāinga housing or kaumātua housing that may be governed by Te Ture Whenua Māori Act 1993).
- Accommodation generally available to the public and, in most cases, to numerous people simultaneously (though at varying scales), and on Treaty settlement land (for example, Māori-led build-to-rent housing).
- Accommodation where there may be certain regular services, such as when there are common areas or the regular provision of care services (for example, accommodation associated with a marae or community centre).

2.80 The impact that changes to the GST treatment of supplies of accommodation could have on Māori accommodation arrangements is unclear. Hapū, iwi, Māori trusts and Māori housing organisations are best placed to assist with identifying improvements that are responsive to the unique features inherent across the Māori housing continuum and promote intended policy outcomes.

2.81 Officials are interested to hear from Māori about:

- whether any of the policy options considered in this chapter would have any specific implications for these arrangements
- how these arrangements may intersect with current GST settings (for instance, do the current GST rules create any issues for these arrangements?), and
- whether policy changes are needed to address any issues in this context.

#### Questions for submitters

- Q8. Are any of the policy options identified in this chapter likely to have direct impacts for Māori? If yes, please explain what these impacts are.
- Q9. Do the current definitions of "dwelling" and "commercial dwelling" create any issues for Māori housing arrangements? If yes, please explain what these issues are.
- Q10. What features of Māori housing arrangements should be specifically reflected in the policy design to ensure the rules are workable and equitable?
- Q11. Do you have views on how any boundary test focused on the nature of occupation (for example, "quiet enjoyment") should be applied in tikanga-based housing settings?

## Transitional rule

2.82 Officials note that the possible changes suggested in this chapter may alter the GST treatment of some supplies of accommodation. If any changes are ultimately progressed, we suggest that a transitional rule (similar to the rule in section 21HB of the GST Act) could

preserve the current treatment of supplies of accommodation if they are altered as a result of the changes.

**Questions for submitters**

- Q12. Are there other issues or uncertainties that arise due to the current definitions of “dwelling” and “commercial dwelling” that are not identified in this chapter and that you think officials should consider? If there are, briefly explain what these issues are.
- Q13. Are there other options for achieving the policy intention of the “dwelling” and “commercial dwelling” definitions or for making these definitions easier to apply that are not identified in this chapter and that should be considered? Describe these options.
- Q14. Do you agree there should be a transitional rule that accommodation suppliers could choose to apply to preserve the current treatment of supplies of accommodation if they are altered as a result of any policy changes? Why/why not?

## Chapter 3 – Electricity exported to grid by residential premises

### Overview

- 3.1 The supply of surplus solar-generated electricity exported from dwellings is subject to GST when the account holder<sup>13</sup> is registered for GST for another taxable activity.
- 3.2 The current rules rely on those account holders recognising the supply and correctly returning output tax, which creates a compliance risk.
- 3.3 Officials are seeking feedback on zero-rating these supplies to electricity retailers.
- 3.4 The proposal aims to address an integrity risk while keeping these supplies within the GST system to avoid transitional consequences associated with an exemption.

### Current law and practice

- 3.5 Account holders may generate more electricity than they consume through solar panels installed on their dwellings. Surplus electricity can be exported to the grid, with electricity retailers purchasing it at an agreed buy-back rate and applying a credit to the account holder's power bill. This credit is consideration for GST purposes.
- 3.6 For GST purposes, most account holders without another taxable activity would make supplies of surplus solar-generated electricity below the \$60,000 registration threshold and would not be required to register for GST. Therefore, when the account holder is not registered for GST, no output tax is payable.
- 3.7 However, if the account holder selling the surplus solar-generated electricity is registered for GST for another taxable activity (for example, short-stay accommodation), they are required to return output tax on the consideration received. Officials understand that electricity retailers often provide their customers with buyer-created taxable supply information for these purchases. Where this is provided, the retailer will claim input tax deductions.
- 3.8 The current approach relies on account holders correctly returning output tax if they are registered for another taxable activity. This creates a compliance risk. Account holders may fail to return output tax because they may not recognise that they are receiving consideration for taxable supplies, particularly because the supply of surplus solar-generated electricity will not be their main taxable activity.

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<sup>13</sup> In this chapter, "account holder" means the person named on the electricity account for the dwelling.

## Proposal

- 3.9 Officials propose that supplies of surplus electricity by account holders to electricity retailers be zero-rated when both of the following are met:
- the account holder is registered for GST for another taxable activity, and
  - the surplus electricity is generated by solar panels installed on a dwelling.
- 3.10 For the purpose of this proposal, “surplus electricity” refers to electricity generated at a dwelling that exceeds on-site consumption. For this purpose, “dwelling” has the same meaning as given in section 2(1) of the Goods and Services Tax Act 1985 and is intended to capture premises used predominantly as a place of residence.
- 3.11 The proposal would not affect businesses generating electricity from panels installed on commercial or industrial premises (for example, a factory roof). These supplies would remain taxable at the standard rate of 15%.
- 3.12 Under the proposal:
- The supply of surplus electricity from dwellings that meets the criteria above would be zero-rated.
  - Electricity retailers would not claim input tax deductions for these purchases.
  - Buyer-created taxable supply information could continue to be used.
- 3.13 The change would reduce the risk of output tax not being accounted for by GST-registered account holders and avoid transitional complications that an exemption would create.

### Example 3: How zero-rating compares with current law

Amelia operates a GST-registered beekeeping business and files GST returns on a six-monthly basis. She has solar panels on her dwelling and in summer exports surplus electricity to the grid, receiving a credit on her power bill totalling \$450 a year.

Under current law, Amelia must return output tax on the \$450 credit in her GST returns. The electricity retailer does not account for output tax, but it will claim input tax deductions equal to the amount of output tax Amelia accounts for in her GST return.

Under the proposed treatment, Amelia’s supply of surplus electricity would be zero-rated. She would not return output tax, and the electricity retailer would not claim input tax deductions.

**Questions for submitters**

Q15. Do you agree with the proposal outlined in this chapter? Why/why not?

Q16. Would it simplify matters for retailers if there was also an exception to the requirement to provide taxable supply information (including buyer-created taxable supply information) in respect of surplus electricity purchased from account holders?

## Chapter 4 – Cross-border issues

### Overview

- 4.1 This chapter mostly considers current issues with the GST rules as they apply to non-resident suppliers.
- 4.2 Non-resident suppliers are subject to the same GST registration threshold as that applying to a New Zealand-resident business. That means a non-resident business is required to register for GST if it makes (or expects to make) supplies in New Zealand worth more than \$60,000 in a 12-month period.
- 4.3 In practice, the \$60,000 registration threshold is a higher threshold for a non-resident business than it is for a New Zealand-resident business. This is because most supplies by non-residents are generally outside the scope of New Zealand's GST unless the supply is to a final consumer in New Zealand. As a result, many non-resident businesses are not required to register. This is a deliberate policy setting mainly aimed at minimising compliance and administration costs.
- 4.4 Officials are aware there are issues with the current GST rules where the rules may in some scenarios require some non-resident businesses to be registered for GST when:
  - they (or their employee) perform work at a GST-registered client's premises in New Zealand, resulting in unnecessary compliance costs, or
  - their only taxable supplies in New Zealand are zero-rated supplies, or any standard-rated supplies they do make in addition to their zero-rated supplies are well below the \$60,000 registration threshold.
- 4.5 In such circumstances, the compliance and administration costs associated with registration likely outweigh any tax revenue benefit from having the non-resident in the GST system.
- 4.6 This chapter discusses these issues and considers potential solutions.
- 4.7 In addition to considering the specific issues for non-resident suppliers, this chapter also considers the wider issue of the application of the GST registration threshold when the person's only supplies in New Zealand are certain zero-rated supplies, including when the supplier is a New Zealand resident.

### Objectives and principles of review

- 4.8 The objective is to minimise unnecessary compliance and administration costs that may arise under the current GST rules when non-resident businesses make certain types of supplies in New Zealand or use a business client's premises in New Zealand when providing services to that client.

#### 4.9 Any policy changes should:

- provide clarity and certainty about how the GST rules apply in these scenarios
- ensure cross-border business-to-business neutrality still applies so that GST does not end up being a tax on businesses or on consumption occurring outside New Zealand, and
- avoid compromising revenue integrity by ensuring consumption taking place in New Zealand is still taxed, and that the GST registration requirements still apply to non-residents when appropriate.

## Background

- 4.10 One of the central requirements for GST to apply to a supply of goods and services is that the supply must be made in New Zealand. Supplies that are made outside New Zealand are not taxable supplies. The place of supply rules in section 8 of the Goods and Services Tax Act 1985 (GST Act) determine whether a given supply is made in New Zealand or outside New Zealand.
- 4.11 Supplies that are made in New Zealand in the course or furtherance of a taxable activity are counted for the purposes of determining whether the supplier meets the \$60,000 registration threshold. This includes supplies that would be zero-rated if the supplier registers for GST. Supplies made outside New Zealand do not count for the purposes of the registration threshold.
- 4.12 The place of supply rules differentiate between supplies by New Zealand residents and supplies by non-residents. In particular, supplies by:
- residents are deemed to be made in New Zealand, regardless of whether the supply is made to a GST-registered business or to a final consumer
  - non-residents are generally deemed to be made outside New Zealand and therefore are usually not subject to GST.
- 4.13 This means many non-residents are not required to register for GST. The exception to this is when a non-resident makes supplies to unregistered persons in New Zealand (these supplies are generally deemed to be made in New Zealand) exceeding \$60,000 in value annually. Supplies made to New Zealand GST-registered businesses (where the New Zealand business intends to use the goods and services for making taxable supplies) are however generally excluded from the scope of GST. This is commonly referred to as the “business-to-business exclusion”.
- 4.14 Under the GST Act, a person is a “non-resident” to the extent that they are not a “resident”. For GST purposes, the term “resident” generally means resident as determined in accordance

with the tax residence rules in the Income Tax Act 2007 for natural persons and companies.<sup>14</sup> However, the definition of “resident” in the GST Act also provides that a person is deemed to be resident in New Zealand:

- to the extent they carry on a taxable activity or any other activity in New Zealand while having any fixed or permanent place in New Zealand relating to that activity
- if the person is an unincorporated body (which includes a partnership, an ordinary joint venture, and the trustees of a trust) that has its centre of administrative management in New Zealand.

## Using client’s premises to make supplies

- 4.15 The definition of “resident” means that suppliers who would otherwise be non-resident are treated as being resident in New Zealand for GST purposes to the extent to which they carry on any taxable activity or other activity in New Zealand while having any fixed or permanent place in New Zealand relating to that activity.
- 4.16 To the extent that a supplier is treated as resident due to having a fixed or permanent place in New Zealand, they can no longer use the business-to-business exclusion for non-resident suppliers.
- 4.17 For example, if a non-resident contractor performs work at the premises of a GST-registered client, they could be considered to have a “fixed place” from their regular access to their client’s premises. They could then be required to register for GST and return GST on supplies they make to that client. This outcome would impose compliance costs that may not be justified given their GST-registered client would claim corresponding input tax deductions on these business-to-business supplies.
- 4.18 Officials consider the business-to-business exclusion should continue to be available in these and other similar circumstances. We are interested in submitters’ views on the best way to achieve this outcome.

## Suggested solution

- 4.19 One option could be to amend the definition of “resident” in the GST Act to narrow the scope of “having” a fixed or permanent place so that it would only apply in cases when the supplier owns, leases or rents the premises (as opposed to using premises owned, leased or rented by another unassociated entity). The suggested amendment could also exclude a non-resident worker who is working from a house or apartment that they lease by excluding premises that are leased primarily for accommodation, as opposed to being primarily used as business premises.

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<sup>14</sup> Sections YD 1 and YD 2 of the Income Tax Act 2007. However, section YD 2(2) and the back-dating rules in section YD 1(4) and (6) do not apply for GST purposes.

#### **Example 4: Employee of non-resident working at client's premises in New Zealand**

Ben is an employee of Smitty Auditors based in Australia. Smitty Auditors is non-resident for New Zealand GST purposes. In his role as an auditor, Ben's next project is to travel to Masterton New Zealand and conduct an audit of a new client of Smitty Auditors, Harris Engineering Co. Harris Engineering Co is a GST registered person. As part of his role, Ben is required to carry out the audit at the physical premises of Harris Engineering, including having access to all areas of the premises, and is provided dedicated office space to work from for approximately three months.

Under the existing rules, prior to Ben carrying out work for Harris Engineering, Smitty Auditors was non-resident for GST purposes because it had no fixed or permanent place in New Zealand. However, Ben's work at the premises of Harris Engineering (a GST-registered person) where he is provided with a place at his disposal to carry out the audit, means Smitty Auditors may be regarded as having a fixed or permanent place in New Zealand. Consequently, Smitty Auditors may be treated as resident for GST purposes to the extent of the activity it carries on in New Zealand through Harris Engineering's premises.

Under the suggested amendment, Smitty Auditors would not be treated as resident in New Zealand solely because of Ben's work at the premises of Harris Engineering. This is because the work is carried out at the business premises of a client that is not associated with Smitty Auditors. This means that under the suggested amendment, Harris Engineering's business premises would not be a fixed or permanent place for Smitty Auditors.

#### ***Alternative scenario***

Ben often completes his work outside core hours at the apartment leased by Smitty Auditors for Ben to reside in while he is in New Zealand. While Ben is performing work for his employer at his apartment, the premises are primarily being used for accommodation for an employee, rather than primarily used as business premises. Therefore, under the suggested amendment, the premises would not be a fixed or permanent place for Smitty Auditors.

- 4.20 Another option could be to introduce a new business-to-business exclusion that allows a non-resident supplier of services to a New Zealand resident to treat those services as being supplied outside New Zealand. This exclusion would apply when those services would otherwise be treated as supplied in New Zealand because the non-resident is considered to have a fixed or permanent place in New Zealand solely because its employee is performing work at the premises of a New Zealand GST registered client.
- 4.21 Officials are interested if there are certain types of premises (such as a non-resident supplier temporarily renting a co-working space) that should be considered when developing potential policy options.

**Questions for submitters**

- Q17. If the definition of “resident” was amended to only apply when the supplier owns, leases or rents the premises, would this be an effective way to reduce compliance costs?
- Q18. Should an expanded business-to-business exclusion treat certain business-to-business supplies (such as supplies of services) by a non-resident as not being made in New Zealand if those supplies would otherwise be treated as made in New Zealand because an employee of the non-resident is performing work at the premises of a New Zealand GST registered client? Would this approach be an effective way to remove GST compliance costs on non-resident persons who temporarily visit New Zealand to perform work at the premises of their GST registered client?
- Q19. Are there certain types of premises (such as a non-resident supplier temporarily renting a co-working space in New Zealand) that officials should consider when developing potential policy options?

**Zero-rated supplies and registration threshold**

- 4.22 Another issue is that some suppliers, including residents, may make over \$60,000 of zero-rated supplies, such as supplying exported services or selling emissions units.
- 4.23 Such suppliers are required to register for GST even though they may have few or no standard-rated supplies and may have little or no input tax that they need to deduct. In these cases, the requirement to register and account for GST imposes compliance and administrative costs for no, or very small, revenue benefits. Also, any compliance costs may exceed the benefit to the non-resident from being able to claim input tax deductions (particularly if the non-resident has no or very little input tax to claim back).

**Suggested solution**

- 4.24 A recent law change<sup>15</sup> allows non-resident visitors<sup>16</sup> to disregard certain zero-rated supplies of exported services for the purposes of the GST registration threshold.<sup>17</sup> This change addressed a situation when non-resident persons undertaking remote work during a short stay in New Zealand were required to register for GST, incurring compliance costs despite there being no tax revenue benefit to the Crown.
- 4.25 Officials are interested in submitters’ views on whether this approach should be expanded to allow other non-resident suppliers (and perhaps New Zealand-resident suppliers) to

<sup>15</sup> See section 51(1D).

<sup>16</sup> Defined under section YD 1B of the Income Tax Act 2007.

<sup>17</sup> These are services that would be zero-rated under section 11A(1)(k), being supplies of services that are unrelated to land or moveable personal property in New Zealand, and are supplied to a person who is a non-resident and outside New Zealand at the time the services are performed.

disregard certain zero-rated supplies for the purposes of the GST registration threshold. This would be similar to the approach in the United Kingdom and Singapore, where suppliers that only make zero-rated supplies are not required to register for VAT/GST.<sup>18</sup>

- 4.26 Officials suggest that any expanded ability to disregard zero-rated supplies for the purposes of the GST registration threshold (especially if this is made available to New Zealand-resident suppliers) would be limited to only certain types of zero-rated supplies, such as services. For example, allowing suppliers to not register and account for GST on supplies of land that would otherwise be zero-rated supplies to registered persons would defeat the intention of the compulsory zero-rating of land rules.
- 4.27 Officials are interested in submitters' views on whether a rule allowing a person to disregard zero-rated supplies for the purposes of the GST registration threshold should only apply when the person's only taxable supplies in New Zealand are zero-rated supplies. Under this approach, if the person makes any standard-rated supplies, this would mean the suggested exclusion from the registration threshold would not apply and all taxable supplies, including zero-rated supplies, would be counted towards the GST registration threshold.

#### **Example 5: New Zealand resident providing zero-rated supplies in New Zealand**

Bary is an IT expert specialising in enterprise IT services who primarily resides in Port Douglas, Australia. He also owns a residential property in Queenstown where he spends time during the summer. Bary is non-resident for GST purposes. Bary is living in his Queenstown home when an Australian client asks him to provide urgent IT services for the next three months.

Bary performs this work from Queenstown and charges the client \$65,000 for his services. Because Bary has made zero-rated supplies of more than \$60,000, he is required to register for New Zealand GST, despite there being no tax revenue benefit to New Zealand.

If Bary was instead allowed to ignore these zero-rated supplies when determining whether he satisfies the GST registration threshold, he could still choose to register for GST to claim input tax deductions on his costs incurred in making his zero-rated supplies.

#### **Alternative scenario**

A week later, while in Queenstown, Bary is in a local bar and gets chatting to Steve, a New Zealand-based eye surgeon. Steve is having issues with his IT system and asks Bary to look at it. Bary remotely accesses Steve's IT system and fixes the issue over a two-week period. Bary invoices Steve \$10,000 for the IT services supplied.

Because Steve is physically present in New Zealand, the supply would be standard rated if made by a registered person in the course or furtherance of a taxable activity. However,

<sup>18</sup> Singapore's GST legislation also does not require registration if the supplier's zero-rated supplies exceed 90% of their total taxable supplies and registration would mean the supplier would be in a net refund position for GST (more input tax deductions than output tax).

under the suggested rule, Bary is not required to register for GST and consequently is not required to account for GST on the supply of IT services to Steve.

**Questions for submitters**

- Q20. Should the ability to disregard certain zero-rated supplies of exported services for the purposes of the GST registration threshold be expanded so that this approach can be used by suppliers other than “non-resident visitors” and/or for other types of zero-rated supplies?
- Q21. Should the suggested solution above be limited to certain types of suppliers, such as non-residents, or be limited to certain types of zero-rated supplies, such as services?

## Chapter 5 – Correcting errors and inaccuracies

### Overview

- 5.1 The rules for correcting errors and inaccuracies in GST returns sit across the Goods and Services Tax Act 1985 (GST Act) and the Tax Administration Act 1994. In practice, the interaction between these rules is not always clear, and the rules do not always align with common commercial practice or achieve logical outcomes.
- 5.2 This chapter proposes a clearer and more coherent way to apply the existing correction mechanisms. The intent is to preserve current outcomes where they make sense, while tightening and clarifying the rules where the current boundaries are unclear or produce unintended outcomes.
- 5.3 Most readers should start with the flow diagram below. It shows the steps that will resolve most cases and should look familiar. It also highlights the circumstances where changes are proposed, and these are discussed in further detail later in this chapter.

### Background and problem definition

- 5.4 Taxpayers sometimes need to change a GST position after filing a return. This can happen because the taxpayer made an error when preparing the return. It can also happen because later events mean that the original position is no longer accurate, for example when a supply is cancelled or a refund is provided, or the consideration for the supply changes.
- 5.5 Changes made in 2022 to GST record-keeping, including the move to “taxable supply information” and “supply correction information”, have introduced uncertainty about how the correction rules are intended to apply in practice.
- 5.6 The current rules provide several overlapping ways to correct errors and inaccuracies, including amended assessments and prospective adjustments. The boundaries between these mechanisms are not always clear, which creates confusion and can impose compliance and administration costs even for low-value or revenue-neutral corrections.

### Principles underpinning proposed changes

- 5.7 The proposals in the chapter are intended to clarify and refine the existing correction rules. In doing so, they are guided by four objectives:
- **Minimise compliance and administration costs**, including by avoiding the need to amend earlier GST assessments when errors and inaccuracies can be corrected prospectively without compromising revenue integrity, and by aligning correction processes with common commercial practice and technologies used in modern accounting and invoicing systems, including e-invoicing.

- **Support revenue integrity and fiscal adequacy**, including by limiting opportunities for inappropriate timing advantages, and aligning adjustment mechanisms with the four-year time bar that applies in other tax administration contexts.
- **Provide certainty, predictability, and procedural fairness** by making it clearer when GST errors and inaccuracies can be corrected prospectively without penalties or use of money interest applying, and clarifying the circumstances when it is appropriate to require an amendment to an earlier assessment.
- **Operate coherently within the wider tax system**, including by clarifying the interaction between mechanisms for correcting GST errors in the GST Act with the rules in the Tax Administration Act that allow for the self-correction of errors.

## Overview of proposals

5.8 In general terms, the proposals would:

- clarify when a GST correction affects only the registered person's own GST position (a single-person error) and when it affects, or could affect, another person's GST position (a multi-person adjustment)
- use that distinction to make the boundary clearer between corrections that can be made prospectively in a later GST return and corrections that require an amended assessment
- keep prospective correction for single-person errors within the statutory thresholds for self-correcting GST errors (the "small-value thresholds"), with larger errors generally corrected by amended assessment
- allow prospective error correction for multi-person adjustments regardless of value, but only when the GST consequences can be fully corrected for all affected parties within the applicable time bar
- clarify how penalties and use of money interest apply, depending on the mechanism used for correction, and
- remove the extended timeframe for taxpayer-favourable adjustments arising from "clear mistakes or simple oversights".

## Two-track framework

5.9 The proposals apply a two-track approach based on whether correcting the error affects only the registered person's own GST position, or whether it affects, or could affect, another person's GST position.

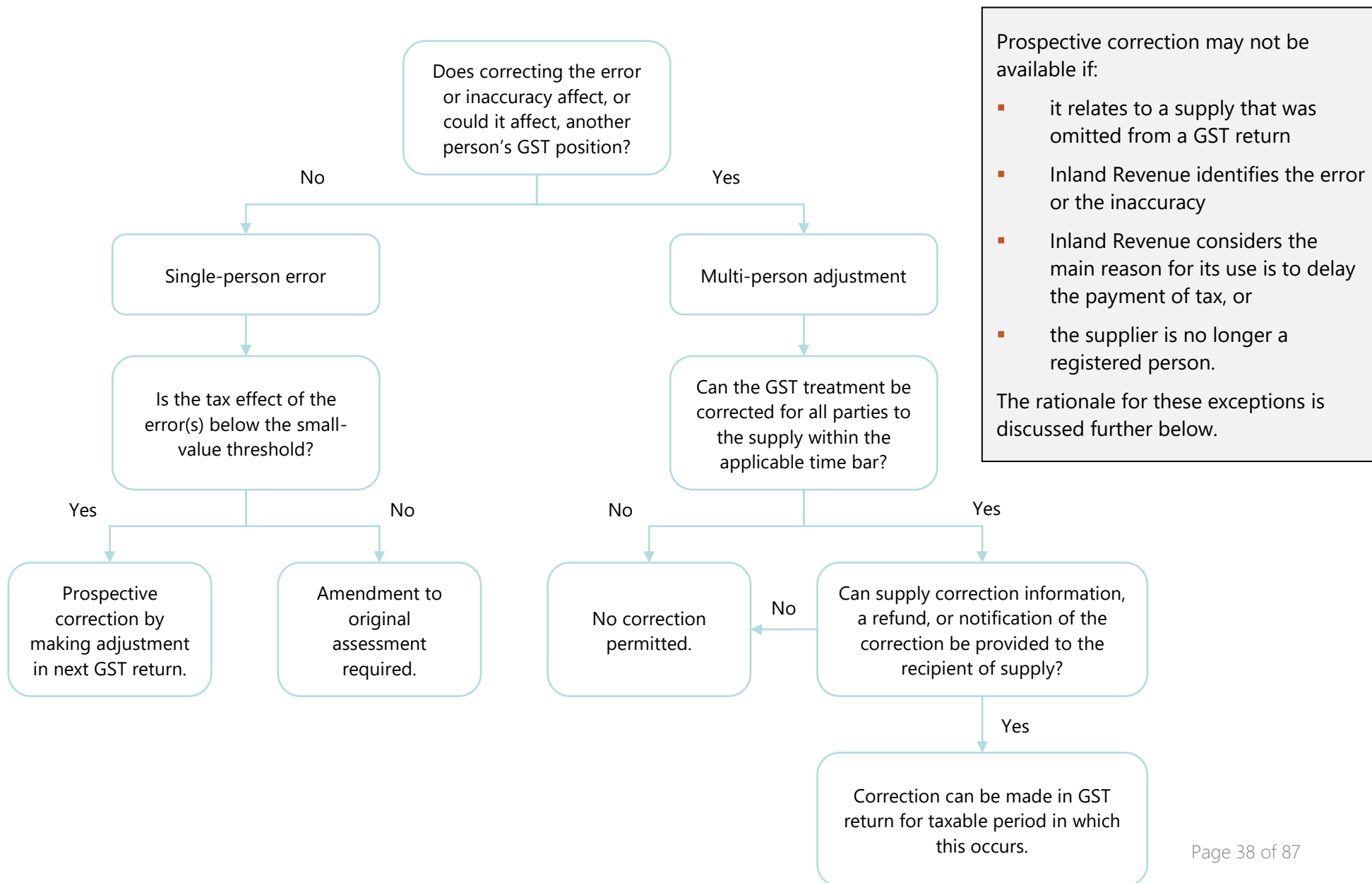
5.10 A key feature of the proposals is that prospective correction would operate as mutually exclusive alternative to amending earlier assessments, not as an additional or more permissive approach. In substance, this distinction already underpins how many GST corrections are currently made in practice. The proposals primarily make that distinction more explicit and set clearer boundaries around when each correction mechanism applies.

- 5.11 For multi-person adjustments, prospective correction that reduces a supplier's output tax liability would be available only where the GST consequences of the supply can be fully corrected for all affected parties. In this context, "fully corrected" means restoring both the supplier and any affected recipient to the GST position they would have been in had the supply been treated correctly at the time it was made.
- 5.12 The following diagram summarises how the proposals would apply in practice. The following sections explain specific parts of the diagram in more detail and describe circumstances where the proposed approach differs from how corrections are currently made. Officials expect that the current legislative provisions that deal with correcting errors and inaccuracies would need to be substantially redrafted to ensure clarity.

### ***What is not proposed to change***

- 5.13 Many of the outcomes described in this chapter will be familiar to taxpayers and advisors. In most cases, the proposals are intended to reflect current law and administrative practice rather than introduce new correction mechanisms. The primary changes are targeted clarifications to when prospective correction is appropriate, the requirement for coordinated correction for all affected parties, the treatment of omitted supplies, and the interaction with penalties and use of money interest.

## Flowchart summarising process for correcting errors and inaccuracies in GST returns



Prospective correction may not be available if:

- it relates to a supply that was omitted from a GST return
- Inland Revenue identifies the error or the inaccuracy
- Inland Revenue considers the main reason for its use is to delay the payment of tax, or
- the supplier is no longer a registered person.

The rationale for these exceptions is discussed further below.

## Single-person errors

- 5.14 A single-person error is an error that affects only a registered person's own GST position and could not affect another person's GST position. Single-person errors typically arise from mistakes made when preparing a GST return, rather than from later events that change the terms or consequences of a supply.
- 5.15 By contrast, where a GST adjustment arises because the terms of a supply change, the supply is cancelled, or consideration is refunded or varied, the adjustment will usually affect another person's GST position (or could conceivably affect another person's GST position). These cases are addressed later in the chapter as multi-person adjustments.
- 5.16 Single-person errors include, but are not limited to:
- mistakes in transcribing amounts into a GST return
  - coding errors, such as treating an expense as zero-rated instead of standard rated where no other party's GST position is affected, and
  - mathematical or calculation errors made when completing a return.
- 5.17 These errors can occur even where the underlying transaction was treated correctly in the registered person's records.

### ***How single-person errors would be corrected***

- 5.18 The following table sets out how single-person errors are generally corrected, and how those outcomes would be preserved under the framework described in this chapter.

**Table 1: How errors would be corrected and penalties and use of money interest implications**

<b>Error is below small-value thresholds</b>	<b>Error is above small-value thresholds</b>
The error(s) may generally <sup>19</sup> be corrected prospectively by making an adjustment in the GST return for the taxable period in which the error was identified.	The error(s) would be corrected through a request by the taxpayer to Inland Revenue for the assessment that contains the error(s) to be amended.
Penalties and use of money interest would not apply.	Penalties and use of money interest would apply in accordance with the Tax Administration Act.

<sup>19</sup> Exceptions may apply, for example, if the person is no longer a registered person filing GST returns, or if the Commissioner considers the main reason for using the small-value thresholds is to delay the payment of tax. These exceptions are discussed in further detail below.

- 5.19 The proposed approach would be subject to an exception when the supply to which the error relates had not been included in a GST return. In this situation, for revenue integrity reasons, it is proposed that the assessment in which the supply should have been accounted for should be amended. However, when the tax effect of an omitted supply is below the small-value thresholds, the taxpayer would be allowed to correct the omission prospectively by making an adjustment in their GST return for the taxable period in which the omission was identified. This exception, and its rationale, is discussed further in the exceptions and safeguards section below from [5.49].
- 5.20 For the avoidance of doubt, the proposed error correction framework would preserve the existing rules that allow input tax attributable to an earlier taxable period to be deducted in a later taxable period in certain circumstances listed in the proviso to section 20(3). The only proposed change in relation to those rules is the removal of the unlimited timeframe for deducting input tax when the failure to deduct input tax at the appropriate time arose from a clear mistake or simple oversight. This proposal is discussed at the end of this chapter.

#### **Example 6: Supply correctly treated but incorrectly recorded in GST return**

Kelvin runs Feedback Loop Co, a GST-registered business that provides customer experience and complaints-handling services to large corporates. Feedback Loop Co makes a standard-rated supply and correctly treats the supply as subject to GST at 15% in its dealings with the customer.

When preparing its GST return, an invoicing line is incorrectly coded in the accounting system, and the supply is recorded as zero-rated. The error only affects how the supply is reported in Feedback Loop Co's GST return and does not affect the customer's GST position.

The error is identified when Kelvin reviews a reconciliation between sales invoices and the GST return. This is a single-person error. Feedback Loop Co corrects the error using the self-correction rules if the tax effect of the error is below the small-value thresholds, or by requesting an amendment to the original assessment if it exceeds the threshold.

### ***Small-value thresholds***

- 5.21 The small-value thresholds are used in this chapter to determine when single-person errors may be corrected prospectively, rather than by amending an earlier GST assessment.
- 5.22 Officials also propose using the small-value thresholds as a constraint in specific exception settings, such as omitted supplies and some Inland Revenue-identified errors, which are discussed below.
- 5.23 The existing small-value thresholds are currently set at:
- \$1,000 of the tax effect for minor errors, and
  - up to \$10,000 of the tax effect or 2% of the taxpayer's output tax payable for the period, whichever is lower, for errors that are immaterial.

- 5.24 For these thresholds, the tax effect is the total discrepancy in GST assessed for the return that is caused by the error(s). If more than one error is identified in the same GST return, the small-value threshold applies to the combined tax effect of those errors for that return. That is, if a return contains several errors that, in aggregate, exceed the small-value thresholds, the taxpayer should seek to correct the errors by requesting the Commissioner amend the assessment that contains the errors.
- 5.25 Officials are interested in views on whether these thresholds remain appropriate. Officials are aware, for example, that exporters are not generally able to make use of the “up to \$10,000” threshold due to their output tax liabilities being low. Similarly, taxpayers who make mainly exempt supplies may also not be able to benefit from the “up to \$10,000” threshold for the same reason.
- 5.26 One option is that the \$1,000 threshold for minor errors could remain, but the test for immaterial errors be based on a maximum tax effect equal to the lower of \$10,000 and 5% of the value of the person’s total supplies (excluding GST) for the taxable period.

#### **Example 7: Five percent of supplies test**

Graeme is a partner in Stride Partners Co, which provides management consulting services to offshore clients and files monthly GST returns. For the period ending 31 January 2027, Stride Partners Co makes total supplies of \$1,000,000. Most supplies are zero-rated because they are supplied to non-resident clients outside New Zealand, so output tax payable for the period is low.

After filing the return, Graeme identifies an error during an internal review of GST coding. A supply of consulting services performed in New Zealand for a New Zealand-based customer was incorrectly treated as zero-rated rather than standard rated. This resulted in an understatement of output tax of \$9,000. The tax effect of the error is therefore \$9,000.

Under the proposed approach, the maximum amount that may be self-corrected is the lower of:

- \$10,000, and
- 5% of the value of the person’s total supplies (excluding GST) for the taxable period.

Five percent of total supplies is \$50,000 ( $5\% \times \$1,000,000$ ). This exceeds the \$10,000 cap, so the applicable threshold for the period is \$10,000.

Because the tax effect of the error (\$9,000) is below the applicable threshold, Stride Partners Co could self-correct the error in the GST return for the taxable period in which they identify the error. The assessment that contains the error would not be amended.

- 5.27 Another option to make the rules simpler would be to remove the percentage-based test and allow for errors with a tax effect below a certain limit to be prospectively corrected by way of an adjustment in the GST return for the taxable period in which the error is identified.

However, officials consider this could lead to inappropriate outcomes that compromise revenue integrity. Therefore, retaining a two-tier test remains appropriate.

### **Example 8: Significant error and reason for two-tier materiality threshold**

Bary operates RevCycle Studio Co, a GST-registered gym that specialises in spin-bike classes for cycling enthusiasts. RevCycle Studio Co files monthly GST returns. For the most recent month, the gym makes total taxable supplies of \$30,000 (excluding GST), relating to class memberships and casual session fees paid by New Zealand customers.

Due to an error when setting up GST codes in its point-of-sale system, all membership fees for the period are incorrectly treated as zero-rated. This understates output tax by \$4,500 for the period.

While the tax effect of the error is below \$10,000, it represents 100% of the GST that should have been returned for the period. Allowing such an error to be corrected prospectively would substantially undermine revenue integrity and the requirement for registered persons to take reasonable care in preparing GST returns.

### **Question for submitters**

Q22. Should the current small-value thresholds be adjusted, replaced, or structured along the lines suggested? Are there other options that should be considered?

## **Multi-person adjustments**

- 5.28 A multi-person adjustment is an adjustment to address an error or an inaccuracy that affects, or could affect, the GST position of another person. For this purpose, an adjustment is treated as affecting another person's GST position even if that other person is not registered for GST. It would not be necessary to determine the GST registration status of the recipient of the supply.
- 5.29 Examples of errors or inaccuracies that would trigger a multi-person adjustment include:
- Errors in taxable supply information that the supplier has provided to the recipient, when supply correction information is required to be provided so the recipient can make a corresponding adjustment in their GST return.<sup>20</sup>
  - Changes that occur after the supplier has taken a position in a GST return, such as refunds, returns of goods, cancellations of supplies, or changes in consideration that mean the position taken in the GST return is now no longer accurate.
- 5.30 For multi-person adjustments, the availability of prospective correction would not depend on the tax effect of the error or inaccuracy being below the small-value thresholds. Instead, the

<sup>20</sup> However, not all inaccuracies in taxable supply information will necessarily trigger a requirement for an adjustment in a GST return. For example, an incorrect description of a supply currently requires supply correction information, despite not necessarily triggering a requirement for an adjustment to be made.

key condition is whether the GST consequences of the original supply can be fully corrected for all affected parties. This reflects that, for multi-person adjustments, revenue integrity is primarily protected through coordinated correction of both parties' GST positions, rather than by value-based thresholds.

### ***How multi-person adjustments would be corrected***

- 5.31 The foundational principle for multi-person adjustments is that a supplier may not reduce its output tax on a supply unless the recipient has been put in the GST position they would have been in had the supply been treated correctly from the outset. In this chapter, the steps a supplier takes to achieve this outcome are referred to as a recipient correction.
- 5.32 A recipient correction may be made by:
- providing supply correction information to the recipient, where taxable supply information was provided in the first instance
  - refunding or crediting the relevant amount to the recipient, or
  - providing the recipient with written notification that identifies the original supply and the amount of the adjustment – for example, by credit note, letter, email, or line in a statement of account.
- 5.33 Multi-person adjustments may be corrected prospectively only if the GST consequences of the supply can be corrected for all parties to it. This requires the supplier to make a recipient correction.
- 5.34 If this condition is met, the supplier may correct the error or inaccuracy by making an adjustment in the GST return for the taxable period in which the error or inaccuracy is identified, provided this occurs within the applicable time bar.<sup>21</sup> The original assessment would not be amended.
- 5.35 In practice, the form of recipient correction depends on whether taxable supply information was provided:
- **If taxable supply information has been provided**, a recipient correction must be made by providing supply correction information to the recipient. This enables the recipient to make any corresponding adjustment in their own GST return. Supply correction information must be provided within the applicable time bar, which is generally four years. Nothing is proposed to extend or override this limit.
  - **If taxable supply information has not been provided**, a recipient correction is still required if the correction would reduce the supplier's output tax liability. In these

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<sup>21</sup> In most cases, the time bar prevents corrections from being made if more than four years have passed since the end of the taxable period in which the return was provided that contains the error or inaccuracy. A further four years is available in the cases of overpaid GST arising from a "clear mistake or simple oversight", however the second part of this chapter seeks feedback on removing this extra timeframe. For some supplies of land or interests in joint venture property that were not zero-rated and that should have been, there is a seven-year timeframe.

circumstances, the supplier may make the recipient correction by refunding or crediting the relevant amount, or by providing written notification of the kind described above.

- 5.36 If the supplier does not make a recipient correction within the applicable time bar, a prospective adjustment would not be permitted. This reflects the principle that a supplier's output tax may not be reduced in isolation without a corresponding recipient correction.
- 5.37 For consistency with general record-keeping requirements, the supplier must retain sufficient records to substantiate the adjustment.

#### **Example 9: Supply originally treated as taxable and later determined to be zero-rated**

Will operates Pole Position Toys Co, a speciality retailer selling Equation 1 model cars and racing merchandise. Pole Position Toys Co treats a sale of merchandise to an overseas distributor as standard rated and includes the supply in the sales box in its GST return. Taxable supply information showing GST at 15% is provided to the recipient.

In a later period, while preparing export documentation for a subsequent order, Will realises the goods were exported outside New Zealand within the required timeframe and the earlier supply should have been zero-rated. Pole Position Toys Co provides supply correction information and refunds the overcharged GST to the overseas distributor.

Pole Position Toys Co makes a prospective adjustment in the GST return for the period in which the need for the correction is identified. The original assessment is not amended, and no penalties or use of money interest apply.

#### **Alternative scenario**

If Pole Position Toys Co does not provide supply correction information, no correction would be possible because the GST consequences cannot be fully corrected for all affected parties.

#### **Example 10: Supply cancelled – recipient not GST-registered and consideration refunded**

Dave operates Cut and Capture Co, a side-business providing professional video recording and editing services for events. To secure a booking, customers are required to pay the full fee in advance. Cute and Capture Co makes a taxable supply of video services to an unregistered customer and, because payment is received in advance, accounts for GST in the relevant GST return. No taxable supply information is provided to the customer.

In a later taxable period, the customer cancels the booking before the event takes place and the GST-inclusive fee is refunded in full. The refund constitutes a recipient correction.

Cut and Capture Co makes a prospective adjustment in the GST return for the taxable period in which the cancellation occurs, which is the same period in which the need for the adjustment is identified. No penalties or use of money interest apply.

Cut and Capture Co must retain sufficient records to demonstrate that the refund was made in the same taxable period in which the prospective adjustment is included in the GST return. If the refund is made in a later taxable period, the prospective adjustment may only be made in the GST return for that later period.

- 5.38 A recipient of a supply who identifies they deducted too much input tax – whether because they received supply correction information or a notification from the supplier, or because they have identified the need for a correction – would be required to make a correction in the GST return for the taxable period in which the need for that correction is identified. This obligation would apply regardless of whether the supplier has taken steps to correct its own GST position.
- 5.39 If no supply correction information has been received, the recipient may treat the correction as a single-person error and apply the rules described above, including the small-value thresholds where applicable.

## Penalties and use of money interest

- 5.40 In practice, penalties and use of money interest are already applied differently depending on whether a correction is made by amended assessment or as a prospective adjustment. However, the legislation does not always make this clear.
- 5.41 Under the proposals:
- When an error or inaccuracy is corrected by way of an adjustment to the GST return for the period that corresponds to when the error or inaccuracy is identified, no penalties or use of money interest would apply. This reflects that no amended assessment is made in these circumstances. The assessment that contains the error or inaccuracy would be treated as correct to the extent an adjustment for the error or inaccuracy is included in a GST return that corresponds to the period in which the error or inaccuracy is identified. This would apply for the purpose of certain parts of the Tax Administration Act.<sup>22</sup>
  - When prospective correction is not available, but amendment remains possible (as discussed above), an error or inaccuracy would need to be corrected by amending the assessment that includes the error or inaccuracy. Penalties and use of money interest applicable to amended assessments under the Tax Administration Act would therefore apply.
- 5.42 There may be circumstances when a registered person has overpaid GST and wants the Commissioner to amend the original assessment so that credit use of money interest applies to the overpayment. Under the proposed changes, when an error or inaccuracy can be corrected prospectively by way of an adjustment in a later GST return, a registered person would not be able to ask the Commissioner to amend the original assessment solely to

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<sup>22</sup> This would ensure that errors and inaccuracies that were corrected in a future GST return would not be subject to the rules for penalties, interest, assessments, disputes and challenges.

obtain credit use of money interest. In these cases, the overpaid GST would instead be credited through the GST return for the taxable period in which the registered person identifies the need for the adjustment. Officials consider this approach reduces compliance and administration costs while preserving the intended distinction between prospective correction and amended assessments.

- 5.43 For completeness, if the Commissioner amends an assessment (including when amendment is required under the proposed changes), credit and debit use of money interest would continue to apply in accordance with the Tax Administration Act.

## **Exceptions and safeguards**

- 5.44 The processes described above would be subject to several exceptions and safeguards. These are intended to recognise there is a balance between ensuring there are simple processes to reduce compliance and administration costs for taxpayers and Inland Revenue and protecting the integrity of the tax system.

### ***Anti-avoidance rule***

- 5.45 It is proposed that taxpayers would not be able to use the processes described above if the main purpose of doing so was to delay the payment of GST. This test already exists in the rules that allow for the self-correction of minor and immaterial errors under the Tax Administration Act.<sup>23</sup>
- 5.46 The proposed changes would leave the application of this test to the judgement and discretion of the Commissioner. This reflects the nature of the rule, which is intended to operate as an anti-avoidance safeguard rather than as a mechanical eligibility criterion.
- 5.47 Officials consider that a prescriptive or objective test would be difficult to apply in practice. Whether a taxpayer's main purpose is to obtain a timing advantage will often depend on the broader facts and circumstances, including the taxpayer's compliance behaviour and the pattern and timing of corrections. Leaving the test to the Commissioner's judgement would allow these matters to be assessed flexibly and proportionately and without the need to engage the formal disputes process.
- 5.48 Where the Commissioner considers the anti-avoidance rule should apply, the assessment that contains the error should be amended. This also means that the Commissioner would consider shortfall penalties, and any applicable late payment penalties and use of money interest would apply to the amended assessment under the Tax Administration Act.

### ***Supplies not included in any GST return***

- 5.49 If a supply has not been included in any GST return, the issue is not the correction of an error or inaccuracy in a GST position that was taken, but a failure to account for the supply at all.

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<sup>23</sup> See section 113A(5) of the Tax Administration Act 1994.

In these circumstances, the proposed framework treats the omission as distinct from both single-person errors and multi-person adjustments.

- 5.50 As a general rule, supplies that were not included in any GST return would not be able to be corrected by way of a prospective adjustment. Instead, the GST position should be corrected by amending the assessment for the taxable period in which the supply was made, or by filing a return if no return was provided for that period. This approach should apply regardless of the specific reason the supply was omitted, including a misunderstanding of GST liability or a failure to treat the supply as taxable.
- 5.51 The policy rationale for this approach is that prospective correction is intended to provide a practical alternative to amending an earlier assessment when a GST position was taken but later proves to be incorrect or becomes inaccurate. It is not intended to provide a mechanism for deferring the accounting for supplies that should have been returned in an earlier taxable period. Allowing prospective correction in these circumstances would create inappropriate timing advantages and weaken incentives for registered persons to take reasonable care in returning GST.
- 5.52 An exception is proposed where the tax effect of the omitted supply is below the applicable small-value threshold. In these cases, the taxpayer may correct the omission prospectively by making an adjustment in the GST return for the taxable period in which the omission is identified. This exception recognises that requiring an amendment of an earlier assessment for very low-value omissions would impose disproportionate compliance and administration costs for both taxpayers and Inland Revenue.

#### **Example 11: Failure to charge GST due to misunderstanding of liability**

Thomas operates PastureGate Co, a working farm that also provides short-stay accommodation to visitors, including tourists staying on the farm in converted shearers' quarters. PastureGate Co is registered for GST.

Thomas does not return GST on the accommodation charges because he incorrectly believes the accommodation is exempt from GST as part of his farming activities. As a result, those supplies are not included in PastureGate Co's GST returns for the relevant taxable periods and no taxable supply information is provided to customers.

Thomas later realises the error after discussing the GST treatment of short-stay accommodation with his accountant. Correcting the issue would involve accounting for supplies that were omitted from earlier GST returns, rather than correcting an error or inaccuracy in a GST position that was taken.

In these circumstances, the omission cannot be corrected by way of a prospective adjustment unless the tax effect of the omitted supplies falls below the applicable small-value threshold. Otherwise, PastureGate Co must request amended assessments for the taxable periods in which the supplies were made. Penalties and use of money interest would apply in accordance with the Tax Administration Act.

- 5.53 The approach in the example would also apply if a supplier was required to register for GST but failed to do so. In such cases, the supplier's GST registration could be backdated to when the taxpayer was liable for registration and GST returns for the relevant taxable periods would be required to be filed.

### ***Inland Revenue-identified errors and inaccuracies***

- 5.54 If Inland Revenue identifies an error or inaccuracy (for example, as part of an audit or investigation), the same principles described earlier in this chapter continue to apply. However, it may be appropriate for the Commissioner to consider whether the error or inaccuracy should be corrected by amending the original assessment, rather than allowing prospective correction. This reflects the higher compliance risk in Inland Revenue-identified cases and supports consistent treatment of amended assessments under the Tax Administration Act.
- 5.55 In broad terms, the approach would depend on the nature of the error or inaccuracy identified, and whether the GST position was incorrect at the time it was taken or had become inaccurate because of later events.
- If the position was incorrect at the time it was taken (for example, an understatement of sales or an incorrect tax treatment), officials consider prospective correction should only be available if the tax effect is below the relevant small-value threshold. If it exceeds that threshold, the Commissioner would generally seek to amend the original assessment and prospective correction should not be allowable. In these circumstances, the Commissioner would consider whether shortfall penalties apply, and late payment penalties and use of money interest would apply in accordance with the Tax Administration Act.
  - Again, if the error or inaccuracy affects, or could affect, another person's GST position, the same requirement for coordinated correction would apply as for any other multi-person adjustment. This means that, regardless of whether the Commissioner amends the supplier's original assessment or allows prospective correction, the supplier would still be required to ensure the GST consequences of the supply are corrected for all affected parties, to the extent that any reduction in the supplier's output tax would otherwise arise. This may require the supplier to make a recipient correction as described from [5.32].
  - Inland Revenue may also identify that a GST position taken in an earlier GST return has become inaccurate because of later events (for example, a supply is cancelled in a later taxable period, or the consideration for a supply changes). In these cases, the original GST position may have been correct when taken. Consistent with the approach described earlier for multi-person adjustments, it would generally be more appropriate for the correction to be made prospectively in the taxable period in which the inaccuracy arises or is identified. This avoids reopening earlier assessments where the GST position taken at the time was correct.

**Example 12: Inland Revenue identifies understatement of GST**

Laura operates Dog-Eared Pages Co, a GST-registered independent bookshop selling new books and stationery to retail customers and institutions. Dog-Eared Pages Co files regular GST returns and provides taxable supply information to customers as part of its ordinary sales processes.

As part of a routine audit, Inland Revenue identifies that output tax has been understated in a GST return. The understatement arises from a mismatch between the taxable supply information issued to customers and the amounts included in the GST return, due to an error when point-of-sale data was aggregated and transferred into the return. The error affects only Dog-Eared Pages Co's own GST position and does not affect the GST position of any other person.

The tax effect of the error exceeds the applicable small-value threshold, and Laura agrees that the GST position taken in the return was incorrect at the time it was filed.

In these circumstances, Inland Revenue would seek to amend the assessment that contains the error. Penalties and use of money interest would apply in accordance with the Tax Administration Act.

**Post-deregistration errors**

- 5.56 The proposed framework applies to registered persons filing GST returns in the ordinary course. A person who is no longer registered for GST and who later identifies an error in a return filed while registered would not be able to correct the error prospectively, as they are no longer able to file GST returns.
- 5.57 In these circumstances, the person would need to request that the Commissioner amend the original assessment. If correction would reduce output tax in a way that affects, or could affect, another person's GST position, the deregistered person would still be required to make a recipient correction as a condition of the correction.

**International comparison**

- 5.58 In developing the proposals in this chapter, officials have considered how the rules for allowing the correction of errors and inaccuracies operate in jurisdictions with comparable value-added tax (VAT)/GST systems, including Australia, Canada, Singapore and the United Kingdom.
- 5.59 Overall, these jurisdictions apply more integrated and internally consistent frameworks for correcting VAT/GST errors and inaccuracies. While the detailed mechanics differ, they generally distinguish between errors where a tax position was taken and later requires correction, and situations where tax was not properly accounted for at all. Error correction mechanisms are typically constrained by time limits and safeguards intended to manage compliance costs while protecting revenue integrity. The proposals in this chapter would

bring New Zealand's error correction framework more closely into line with international approaches.

- 5.60 One area where alignment is particularly evident is the treatment of corrections that would otherwise benefit the supplier in isolation. In Australia, Canada, and Singapore, suppliers are generally required to provide evidence that the customer who bore the economic cost of incorrectly charged GST has been refunded or credited before the supplier can correct its GST position. In the United Kingdom, suppliers are required to enter into a reimbursement arrangement with HM Revenue and Customs under which they agree to repay the customer who bore the cost of the VAT.
- 5.61 These approaches reflect a common policy objective of ensuring that VAT/GST error correction mechanisms do not produce windfall gains for suppliers and that corrections align with the economic incidence of the tax. While New Zealand's current rules already reflect aspects of this objective,<sup>24</sup> the proposals in this chapter would make this principle more explicit and apply it more consistently, particularly through the clearer distinction between single-person errors and multi-person adjustments and the requirement for coordinated correction where another person's GST position is, or may be, affected.

## Application date

- 5.62 The outcomes described in this chapter are, in many cases, already being achieved in practice. However, the proposals also introduce new concepts and requirements.
- 5.63 Officials therefore consider it appropriate for the proposed rules to apply from the day after the Royal assent of any amending legislation, meaning the new framework would apply to corrections of errors or inaccuracies made on or after that date.
- 5.64 Officials invite submissions on this approach.

### Questions for submitters

Q23. Is the overall error correction framework set out in this chapter clear and workable in practice? In particular, does the proposed distinction between single-person errors and multi-person adjustments make sense from a commercial perspective?

Q24. Does the proposed framework align with how errors are identified and corrected in practice, including through accounting software and e-invoicing systems? If not, where do you see the mismatches between the framework and current commercial or system-driven processes?

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<sup>24</sup> For example, with the supply correction information rules. Officials acknowledge that these rules only apply where taxable supply information has been provided, and that taxable supply information may not always be provided.

### Questions for submitters

- Q25. Are the proposed limits on when errors and inaccuracies may be corrected prospectively (including exceptions to prospective correction) logical and appropriate? Are there any exceptions that you consider should be modified, expanded, or removed?
- Q26. Are there scenarios where you consider the proposed framework could be difficult to apply, or could lead to outcomes that are inappropriate, undesirable, or inconsistent with the policy intent? If so, please describe the scenario and explain why the outcome would be inappropriate.
- Q27. For users of automated or system-generated correction processes (for example, automated credit notes or corrections generated through e-invoicing platforms), are there situations where those processes would not fit comfortably within the framework? If so, what are those situations?
- Q28. Are there aspects of the framework that could unintentionally discourage the use of automated, system-driven, or coordinated correction processes? If so, please explain how and why.
- Q29. If you agree with the framework (or consider it appropriate with modifications), do you agree it should apply from the day after the Royal assent of any amending legislation? Please explain your reasons.

## Extra time limit for clear mistakes and simple oversights

- 5.65 The GST Act currently contains specific references to clear mistakes or simple oversights that operate to extend the period within which certain taxpayer-favourable corrections can be made.
- 5.66 In particular:
- refunds of overpaid GST arising from a clear mistake or simple oversight may generally be made up to eight years after the end of the taxable period to which the GST return containing the error or inaccuracy relates,<sup>25</sup> rather than being subject to the standard four-year time bar, and
  - input tax that was not deducted in the taxable period to which it properly belongs due to a clear mistake or simple oversight may be deducted in a later taxable period, without being subject to a fixed time limit.
- 5.67 These extended timeframes are an exception to the general approach in the GST system, under which amendments to GST assessments are subject to a four-year time bar. Inland

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<sup>25</sup> See section 45(4) of the GST Act for the general refund timeframes and section 19N(7) of the GST Act for the timeframes for supply correction information. Both these provisions refer to extended timeframes for clear mistakes and simple oversights.

Revenue is generally subject to the four-year time bar when increasing GST assessments, except in cases of serious non-compliance.

- 5.68 Officials consider that these extended timeframes are no longer appropriate. Time limits on correcting tax positions involve a trade-off between achieving finality and ensuring the correct amount of tax is paid. The four-year time bar reflects a judgement about where that balance should sit by providing both taxpayers and Inland Revenue with a reasonable period to identify and correct errors, while allowing GST positions to be finalised within a predictable timeframe.
- 5.69 The extended timeframes for clear mistakes and simple oversights were established in an earlier administrative environment, when GST assessments were commonly amended by the Commissioner and systems were less automated. In a modern self-assessment environment, registered persons are primarily responsible for assessing their own GST positions, and accounting systems increasingly identify and correct errors closer to the time they arise.
- 5.70 Officials also consider that the proposed framework in this chapter reduces the need for extended correction periods. In particular, the ability for taxpayers to correct errors and inaccuracies prospectively, without amending earlier assessments and without penalties or use of money interest applying in appropriate cases, means that many genuine errors can be corrected efficiently within the standard four-year time bar.
- 5.71 Accordingly, officials propose removing references to clear mistakes and simple oversights as a basis for extending time limits for taxpayer-favourable corrections. In effect, this would mean that:
- refunds of overpaid GST arising from errors or inaccuracies would generally be subject to the standard four-year time bar, and
  - input tax attributable to an earlier taxable period would only be able to be deducted in a later taxable period if one of the existing grounds for late deduction continues to apply.<sup>26</sup>
- 5.72 Officials consider this approach better aligns GST with other major tax types (including income tax) and is consistent with the objective of providing proportionate and practical error correction for genuine errors. Applying the same four-year timeframe to taxpayer-favourable corrections as applies to other corrections also means that both taxpayers and the Crown can treat GST positions as final within a predictable and consistent period.
- 5.73 Officials are interested in whether the removal of these extended timeframes could give rise to situations when output tax should be reducible but no longer would be, and/or input tax

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<sup>26</sup> The remaining grounds in paragraph (b) of the proviso to section 20(3) are that input tax attributable to an earlier taxable period was not deducted due to one or more of the following reasons:

- the person could not obtain taxable supply information
- there was a dispute over the proper amount of the payment for the taxable supply to which the deduction relates, or
- there was a mistaken understanding on the part of the person that the supply to which the deduction relates was not a taxable supply.

that should appropriately be deductible would no longer be able to be deducted, notwithstanding the remaining grounds for late deduction.

**Questions for submitters**

Q30. Do you consider the extra four-year period for refunds of overpaid tax in GST returns arising from clear mistakes or simple oversights should remain despite it no longer existing for other tax types? If so, why?

Q31. Are there circumstances when input tax that should be allowed to be deducted that would no longer be able to be deducted if the clear mistake or simple oversight ground was removed, even though other limited grounds for late deduction would remain available? If so, please describe the circumstances.

## Chapter 6 – Miscellaneous issues

### Overview

- 6.1 This chapter seeks feedback on several other GST issues. These relate to:
- input tax deductions for goods and services acquired before registration
  - introducing a separate GST group registration that is distinct from any member's IRD number
  - time of supply when an invoice has been issued or a payment has been received but the total amount of consideration is not yet known
  - the GST treatment of a supply of an interest in an unincorporated body.
- 6.2 We also welcome submissions with suggestions for other technical amendments or remedial matters that could improve or correct the operation of provisions in the Goods and Services Tax Act 1985 (GST Act).

### Input tax for pre-registration expenditure (including supplies valued at \$10,000 or less)

- 6.3 The GST rules generally aim to ensure that GST is not a cost to registered persons to the extent goods and services are used for making taxable supplies. However, the current rules can prevent an input tax deduction in some cases where goods and services were acquired shortly before a person registered for GST and are later used for making taxable supplies.
- 6.4 In broad terms, the issue arises because a special rule allows GST to be claimed for certain pre-registration goods and services through the adjustment rules,<sup>27</sup> but the adjustment rules include a \$10,000 (excluding GST) threshold.<sup>28</sup> The Commissioner of Inland Revenue's view<sup>29</sup> is that this threshold prevents a person from making an adjustment for pre-registration goods and services acquired for \$10,000 or less (excluding GST). Officials understand that some taxpayers are not aware of this view until they try to claim an input tax deduction.
- 6.5 Officials consider this outcome is coherent with the policy settings that apply to low value goods and services, including the principal purpose test, which allows a full input tax deduction for goods and services acquired with the principal purpose of making taxable supplies (and no input tax deduction when this does not apply). However, officials are aware that the current rules can produce different outcomes depending on the sequencing of events and may be seen as unfair in some scenarios.

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<sup>27</sup> See section 21B of the GST Act.

<sup>28</sup> See section 21(2)(b) of the GST Act.

<sup>29</sup> See Commissioner's Statement 26/02: "GST treatment of low value pre-registration acquired goods and services".

**Example 13: Pre-registration goods and services acquired for less than \$10,000**

A sole trader decides to start a new business. On 2 February, they buy \$9,200 of goods, including \$1,200 of GST. They buy a further \$9,200 of goods, including \$1,200 of GST on 28 February.

On 14 March, they register for GST. Their balance date is 31 March.

In their GST return filed on 7 May they seek to claim \$2,400 of GST for the goods they acquired before registering. Under current law, the Commissioner considers the taxpayer cannot claim the input tax deduction because each supply was acquired for less than \$10,000 (excluding GST).

If the facts were slightly different, the person could deduct input tax of \$2,400. For example, if they had registered for GST before acquiring the goods, or they acquired the goods as a single supply above \$10,000 (excluding GST).

- 6.6 Officials consider this issue reflects a wider design tension with how the GST Act treats goods and services acquired before registration and later used for making taxable supplies.

**Options**

- 6.7 Officials have identified the following options and welcome alternative suggestions:

- **The status quo.** Under this option, the current outcome would remain. A person could not claim an input tax deduction under the adjustment rules for pre-registration goods and services with a value of \$10,000 or less (excluding GST). This is consistent with how the principal purpose test for goods and services below \$10,000 (excluding GST) applies because at the time the person acquired the goods or services they were not registered for GST and had not started making taxable supplies, so the goods or services would often not be acquired for the principal purpose of making taxable supplies.
- **Revert the law to its pre-2019 state.** Under this option, the law would revert to its earlier approach in a way that would allow adjustments to be made for pre-registration goods and services below \$10,000 (excluding GST).<sup>30</sup> Officials have concerns with this option because it could over-compensate input tax for assets that depreciate, and would undermine the coherence and neutrality of the GST system by giving unregistered persons an advantage over registered persons. In particular, registered persons who acquire goods and services without a principal purpose of making taxable supplies may be denied an input tax deduction even if their actual taxable use later increases, whereas unregistered persons could obtain a full deduction on registration for comparable low-value items. This option would also allow taxpayers to selectively make favourable adjustments without being required to make corresponding

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<sup>30</sup> Section 21(2) of the GST Act, prior to an amendment made in 2019, allowed (but did not require) an adjustment to be made when, among other things, the value of goods or services excluding GST was \$5,000 or less. The amendment made in 2019 changed the language from “not required” to “not permitted”, thereby removing the choice for taxpayers to make an adjustment in those circumstances.

unfavourable adjustments, which would undermine the intended symmetry of the adjustment rules.

- **A new “entry into the GST base” rule.** Under this option, the GST Act would include a new rule<sup>31</sup> that allows registered persons to claim input tax when certain pre-registration goods and services are later used by the person for making taxable supplies. At a high level, the rule could:
  - Treat eligible goods and services as being acquired when they are first used for making taxable supplies (which may occur on or after registration).
  - Cap the amount of the input tax deduction at the lower of the original acquisition cost and the open market value of the goods or services at that time. The rule could also include safeguards so a person does not get a more favourable deduction than would be available under the secondhand goods rules for supplies between associated persons in relevant cases.
  - Require apportionment of the input tax deduction for any mixed use (unless the goods or services are valued at \$10,000 excluding GST or less and are used for the principal purpose of making taxable supplies).

In terms of eligible goods and services, this could include goods and services for which input tax would be deductible, when sufficient records are available to substantiate the calculation. This would include secondhand goods, as well as goods and services on which GST has been charged. Officials consider the rule should apply to services only to the extent the services still represent an unexpired right or entitlement that is capable of being used to make taxable supplies (for example, an annual subscription that spans a person’s pre- and post-registration period). Officials do not consider the rule should allow a deduction for services that have been fully consumed before the goods or services first start being used to make taxable supplies.

The “entry into the GST base” rule would support coherence across the GST system, reduce the incentive for persons to structure around the current rules to achieve an input tax deduction, and reduce compliance costs by making the availability of deductions less sensitive to whether goods and services are acquired before or after registration.

It would also allow an earlier input tax deduction than under the adjustment rules (which typically require adjustments to be made in the GST return that corresponds with the person’s balance date for income tax purposes). This is because input tax would be deductible in the taxable period that corresponds with when the goods and services started to be used to make taxable supplies.

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<sup>31</sup> The proposed rule could replace the current rule in section 21B of the GST Act and would sit outside the adjustment rules.

- 6.8 Officials are aware that there may be other approaches. For example, the Commissioner has a broad discretion to back-date a person's GST registration.<sup>32</sup> If this discretion was exercised, this may facilitate an input tax deduction for pre-registration expenditure in some circumstances. However, this can create administrative complexity because it can be difficult to validate when a taxable activity commenced. Backdating a person's registration would also not allow for input tax deductions when goods and services were acquired prior to the person's taxable activity commencing.

#### Questions for submitters

- Q32. Do you agree the current rules can produce unfair or anomalous outcomes when goods and services acquired shortly before GST registration are used for making taxable supplies, but no input tax deduction is available?
- Q33. What are your views on the options discussed? In particular, what limits or conditions would be necessary to protect revenue integrity and prevent inappropriate claims?
- Q34. If an "entry into the GST base" rule was introduced, do you agree that the input tax deduction should be capped at the lower of the original cost of the goods or services or the open market value at the time they first start being used to make taxable supplies? If not, why?
- Q35. If an "entry into the GST base" rule was introduced, should it apply to services as well as goods, and if so, should it apply only to the extent the services are still capable of being used to make taxable supplies (for example, because they involve an unexpired right or entitlement)? What practical or compliance issues would arise if services were included or excluded?

## Exit by representative member of GST group

- 6.9 The GST grouping rules allow closely related entities to elect to be treated as a single person for GST purposes. The primary objective of the rules is to reduce distortions between a single entity versus a branch structure and a group structure, along with reducing compliance costs. The rules achieve this by:
- allowing a single GST return to be filed for the group, with the "representative member" responsible for filing returns and paying GST on behalf of the group, and
  - ensuring that GST does not apply to transactions that occur wholly within the group.
- 6.10 In addition, all members are jointly and severally liable for the group's unpaid GST.
- 6.11 Problems can arise when:
- a representative member leaves a GST group

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<sup>32</sup> For more information, see section 51(4) of the GST Act and Standard Practice Statement SPS 18/03 "Effective date of GST registrations".

- a former representative member later seeks relief from joint and several liability, or
- a representative member ceases to exist (following liquidation and removal from the Companies Register).

6.12 In these situations, the current law produces outcomes that are uncertain, administratively complex, and misaligned with the policy intention of the grouping rules. Specifically:

- Under the grouping rules, the representative member is deemed to be the person carrying on all taxable activities and making supplies for the group. Even when the representative member is relieved from liability for GST arising from a later reassessment, the reassessment still legally relates to that representative member's deemed taxable activity. Other group members remain liable for the GST, even though they were not deemed the supplier. This creates a mismatch between the person who is treated as carrying on the activity and the person(s) who ultimately bear the liability.
- The law allows the Commissioner to relieve an exiting member from joint and several liability for additional GST arising from an amended assessment, provided recovery is not significantly prejudiced. If this discretion is applied to a former representative member, it is not clear how amended assessments should operate when relief is granted, including how those amended assessments should be communicated, and how liability should be allocated to remaining members of the group (and not the former representative member).

### Suggested solution

6.13 One option to mitigate these problems is to introduce a separate GST group registration, much like how groups of companies work in an income tax context. This would be distinct from any individual member's IRD number or GST registration number. Under this approach:

- The GST group itself is the registered person.
- GST returns would be filed under a group identifier.
- Assessments and amended assessments attach to the group, and not to any individual representative member's own identification.

6.14 This would address the problems referred to above, specifically:

- **Relief from joint and several liability:** Relief would operate cleanly as a reallocation of liability among members in the same way it works for income tax purposes. It would no longer conflict with the deeming rule that attributes supplies to the representative member.
- **Amended assessments:** Inland Revenue could amend a group assessment even if individual members have exited the GST group. An amended assessment would still be able to be made even if a former representative member (who made the original assessment), exited the group.
- **Ceasing entities:** The removal or liquidation of a representative member would not undermine the group's GST obligations. There would always be a single person (that is, the group) to which assessments attach.

## Alternative options

- 6.15 If a separate registration is not adopted, narrower rules could be introduced that:
- explicitly confirm that amended assessments can be issued to remaining group members when the representative member has left or no longer exists
  - clarify how relief from joint and several liability interacts with the deeming provisions
  - provide clear statutory authority for the Commissioner to re-attribute liabilities to group members when a representative member is relieved from joint and several liability.

### Questions for submitters

Q36. Do you support introducing a separate GST group registration that is distinct from the representative member, so that for administrative purposes, a group for GST purposes would work similarly to how a group works for income tax purposes? Why/why not?

Q37. Are there any concerns (such as compliance costs) or any other issues you foresee with this approach?

## Time of supply when consideration is unknown

- 6.16 Section 9(6) of the GST Act is a special time of supply rule that applies when the total consideration for a supply of goods and services is not known at the normal time of supply.
- 6.17 For a GST-registered supplier accounting on the invoice basis, the general time of supply rule in section 9(1) would mean that the supplier must account for GST based on the full amount of consideration for the supply when a payment is received or an invoice is issued for the supply (whichever happens first). This is clearly not practicable in situations when, at the time an initial payment is received or an invoice is issued for part of the supply, the full amount of consideration for the supply is not yet known. In this circumstance, section 9(6) provides a special timing rule.
- 6.18 The policy intention behind section 9(6) is that the supplier should account for GST to the extent the consideration for the supply is or becomes known. However, the current drafting of the rule is unclear and does not appear to achieve this outcome in all cases.
- 6.19 Section 9(6) applies if the whole of the consideration (referred to as the “price” in the provision) for a supply under an agreement is not determined at the time of the agreement. It provides that when a supply is made under the agreement before the price is determined, the supply is deemed to take place, to the extent of a part of the price, at the earlier of when:
- a payment of the part of the price becomes due or is received, or
  - the supplier or recipient issues an invoice for the part of the price.

- 6.20 To arrive at the intended policy outcome, the first reference to “part of the price” in section 9(6) as it is currently drafted would need to be read as meaning the known part of the overall price, rather than the amount that has been paid or invoiced. As Example 14 illustrates, the total amount paid or invoiced for a supply up to a given date could be lower than the amount of consideration that is known at that time.

#### **Example 14: Venue hire package**

Events Hire Ltd offers a venue package that includes:

- venue hire for \$5,750 including GST
- food and beverage, with the cost of this to be confirmed depending on the number of guests and their dietary requirements, and
- additional services, with the cost to be confirmed depending on the number of guests.

Miriam purchases the venue package on 15 April for an event to be held on 30 September. On entering into the contract, Miriam must pay a \$2,300 deposit. An invoice showing the \$2,300 deposit required to be paid is issued by Events Hire Ltd to Miriam on the date the booking is made.

The remaining \$3,450 cost of the venue hire is due on 30 August. On that same day, Events Hire Ltd confirms the cost of food and beverage and additional services will be \$4,600 including GST. Therefore, the invoice issued by Events Hire Ltd on 30 August shows the \$8,050 estimated remainder of the price.

Following the event, a final wash-up invoice is issued on 2 October for an additional bar tab of \$1,150.

The venue package is a single supply. The total amount of consideration for this supply is not known at the time the first invoice for the supply is issued on 15 April. Therefore, section 9(6) applies.

#### ***Outcome under possible current interpretation***

Under section 9(6) as it is currently drafted, Events Hire Ltd interprets the amount of GST required to be accounted for on each “part” of the price, and the time of supply for each part, as follows:

- Part one: \$300 of GST when the venue package deposit invoice is issued on 15 April. This relates to the first “part of the price” as determined by Events Hire Ltd, being the deposit of \$2,300 including GST.
- Part two: \$1,050 of GST when a second invoice is issued on 30 August for the estimated remainder of the price of \$8,050.
- Part three: \$150 of GST when the final invoice (for the wash-up payment of \$1,150) is issued on 2 October.

**Proposed outcome**

However, the intended policy outcome is that Events Hire Ltd should account for GST on the venue package as follows:

- Part one: \$750 of GST for the venue hire of \$5,750, being the “part of the price” that is known at the time the first invoice is issued on 15 April.
- Part two: \$600 of GST for the food and beverage and additional services invoiced on 30 August for \$4,600, being the part of the price that becomes known on that date.
- Part three: \$150 of GST for the wash-up payment of \$1,150 invoiced on 2 October, being the part of the price that becomes known on that date.

This is consistent with the timing outcome that would arise under the ordinary timing rules if, instead of the transaction being a single composite supply, it was instead three separate supplies (each with its own separate invoice).

**Suggested solution**

6.21 Officials suggest that section 9(6) could be amended to ensure that GST is accounted for on the total known amount of consideration at the time of the most recent payment or invoice for a supply (rather than GST being accounted for on the total amount invoiced or paid to date). Under this approach, GST would be accounted for on a supply when:

- a payment is first received or becomes due, or an invoice is first issued for the supply (whichever is earlier), to the extent of the known amount of consideration at that time
- subsequent to the first payment or invoice, a further payment is received or becomes due, or another invoice is issued for the supply (GST would be accounted for at this time to the extent of the previously unknown<sup>33</sup> consideration that has become known at or by this time).

6.22 This would provide timing outcomes in “single supply” scenarios (like the scenario described in Example 14) that would be consistent with the outcome in equivalent scenarios where (instead of there being a single supply) there are multiple separate supplies and the general time of supply rule in section 9(1) applies to each of those supplies. Officials consider this would be fairer than the outcome that appears to be possible under the current law for single supply scenarios where the full consideration is not known at the time of the first payment or invoice. Namely, this would prevent unintended timing advantages and, in so doing, avoid potential gaming of the current rules to achieve a more favourable timing outcome depending on how transactions and/or invoices are structured.

**Question for submitters**

Q38. Do you agree with officials’ suggested change to section 9(6)? Why/why not?

<sup>33</sup> At the time of the last payment or invoice before the current one.

## Supply of interest in unincorporated body

- 6.23 Under the current law, there are a range of GST treatments for the supply of an interest in an unincorporated body (such as a partnership, ordinary joint venture,<sup>34</sup> syndicate, or other type of unincorporated association). In some situations, the supply may be a taxable supply, taxed at the 15% rate. In other situations, the supply may not be a supply made in the course or furtherance of a taxable activity, such that it will not be subject to GST at all.
- 6.24 In addition, a supply of an interest in an unincorporated body may be an exempt supply of a financial service (more specifically, a transfer of ownership of a participatory security), or possibly a zero-rated supply of a financial service. Officials are aware that this range of GST treatments causes confusion in practice and is likely leading to transactions being treated incorrectly for GST purposes.
- 6.25 Officials do not consider an outcome where a supply of an interest in an unincorporated body is taxed at the 15% rate is appropriate from a policy perspective. This outcome is not consistent with the GST exemption applying to supplies of financial services.
- 6.26 For GST purposes, an unincorporated body is essentially treated like a company, in that it is a separate “person” capable of making and receiving supplies and of carrying on a taxable activity. Therefore, officials consider it would make most sense if the interests in the unincorporated body were treated like they are equity securities, consistent with the GST treatment of shares in a company.
- 6.27 We recognise that this suggested GST treatment might not align with the legal reality of the arrangement (since, legally, it might just be the underlying unincorporated body assets that are being transferred, as opposed to an interest in the body itself, which does not exist as a separate legal entity). However, an outcome where an interest in an unincorporated body is treated like shares in a company is logically consistent with treating the unincorporated body as a person for GST purposes, and is necessary to ensure there is not double taxation.

### Suggested solution

- 6.28 Officials suggest that the definition of “participatory security” in the GST Act could be amended to specifically include an interest in any unincorporated body.
- 6.29 “Participatory security” is currently defined to mean any interest or right to participate in any capital, assets, earnings, or other property of any person when that interest or right forms part of a contributory scheme. This includes an interest in a unit trust as defined in the Income Tax Act 2007, but does not include an equity security, debt security, money, a cheque, or a flow-through joint venture.

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<sup>34</sup> “Ordinary joint venture” refers to a joint venture that is an unincorporated body under the GST Act (as opposed to a “flow-through joint venture”, which is not an unincorporated body).

- 6.30 “Contributory scheme” means any scheme or arrangement that, in substance and irrespective of the form of the scheme or arrangement, involves the investment of money where:
- the investor acquires or may acquire an interest in or right in respect of property, and
  - that interest or right will or may be, under the terms of investment, used or exercised in conjunction with any other interest in or right in respect of property acquired in similar circumstances, whether at the same time or not.
- 6.31 Under these definitions, an interest in an unincorporated body with five or fewer members is generally not a participatory security (unless the body has a manager that also manages other such schemes).
- 6.32 Amending the definition of “participatory security” to expressly include interests in all unincorporated bodies would lead to an outcome where a supply of an interest in an unincorporated body is always treated as an exempt supply of financial services, except when this is instead a zero-rated supply of financial services. Officials consider this change would provide significantly more clarity to taxpayers.

**Question for submitters**

Q39. Do you agree with amending the definition of “participatory security” to include an interest in an unincorporated body? Why/why not?

# Chapter 7 – Modernising the Goods and Services Tax Act

## Overview

- 7.1 This chapter sets out officials' thinking about improvements that could be made to the Goods and Services Tax Act 1985 (GST Act) to improve usability and accessibility.
- 7.2 It seeks feedback on whether the possible improvements outlined in this chapter would be worth pursuing in the short to medium term, or whether broader reform over the longer term is needed.

## Historical context

- 7.3 The GST Act was enacted in December 1985 to introduce a broad-based consumption tax, and took effect on 1 October 1986 with a 10% rate. Over the next 40 years, GST has remained fundamentally true to its original simple design (few exemptions, broad coverage), even as the rate has risen to 15% and the Act itself has been amended numerous times.
- 7.4 The GST system is widely regarded as a success in efficiently raising revenue from consumption. Today, GST contributes about a third of New Zealand's total tax revenue. This longevity and revenue performance underscore that the GST Act continues to effectively achieve its core purpose of taxing consumption to fund government services.
- 7.5 At the same time, however, the accumulation of decades of ad hoc amendments has made the Act far longer and less user-friendly than it was originally. Sections have become dense or renumbered in less logical ways, and the Act's "ease of use" has gradually declined as new rules have been introduced. In short, the Act remains a pillar of the tax system, but its form and presentation are showing their age after four decades of continuous amendments.
- 7.6 Given the Act's dated structure, tax professionals have urged that the GST Act be modernised or even fully rewritten to improve its accessibility. Over time, such calls for a GST Act "refresh" have become a persistent theme in tax policy feedback. Officials are aware of this sentiment in the private sector from regular engagement with the sector, submissions on Inland Revenue issues papers, Government discussion documents, and annual taxation Bills.

## Officials' views on a rewrite

- 7.7 In response to these long-standing calls, officials have considered options for improving the GST Act's usability. However, officials do not currently favour a wholesale rewrite of the GST Act. There are two main reasons. First, the Act still functions effectively. It continues to meet its policy purpose of taxing consumption and raising revenue reliably. In other words, there is no fundamental flaw in the GST system that would demand starting from scratch.

- 7.8 Second, undertaking a full rewrite would be a resource-intensive project with significant opportunity costs for both Inland Revenue and the private sector. Experience shows that rewriting a major tax law can take years of effort. For instance, the Income Tax Act rewrite took over a decade (from the early 1990s through to 2007) to complete and required dedicated drafting teams and an independent advisory panel to manage the process. A comparable GST rewrite would also absorb a lot of Inland Revenue's resources, which would have to be diverted from other priorities, and would also have impacts on the private sector.
- 7.9 A full rewrite would also involve redrafting provisions entirely, which carries a higher risk of unintended legislative change. This risk goes beyond the more manageable impacts of a structural modernisation, which would largely retain the existing legal wording, with more minor improvements where sensible, while improving the Act's layout and usability.
- 7.10 These downsides lead officials to conclude that a full rewrite is not justified at present, especially since many of the benefits of clearer drafting can be achieved without incurring the risks of a full rewrite.

## Alternative approach

- 7.11 Officials consider meaningful improvements could be made to the Act without a wholesale rewrite. These improvements could include:
- **Restructuring and renumbering the Act to make better use of Parts, subparts, and schedules (mirroring the logical outline used in modern legislation).** This could include a renumbering of the Act in its entirety after obsolete and spent provisions have been removed. It could also include a more logical structure that breaks long sections into Parts and subparts. An example is current section 20, which sets out the "Calculation of tax payable". This section currently runs to more than 35 subsections that, fundamentally, are about attribution of output tax and input tax to taxable periods. This could be restructured into a Part with subparts for rules about output tax and input tax respectively.
  - **Repealing obsolete or spent provisions that no longer have effect, so that "dead wood" is cleared out.** This would include removing, for example, Parts 4, 5 and 10, which historically set out the rules for Assessments of tax, the Objections process, and Penalties that are now contained in the Tax Administration Act 1994.
  - **Relocating certain provisions to the Tax Administration Act.** Certain administrative provisions that would be better placed in the Tax Administration Act (because it contains equivalent provisions) could be relocated to that Act, for example, section 42 (Recovery of tax), section 43 (Deduction of tax from payment due to defaulters) and section 75 (Keeping of records).
  - **Adding "defined terms" lists at the end of each section and ensuring all definitions also appear in the main interpretation section.** This would mean defined terms used in a section would be highlighted at the end of the section, so readers know to refer to the "Interpretation" section of the Act to see the meaning of the term. This

feature is currently unique to the Income Tax Act 2007, and officials understand this is something that users consider would help improve usability.

- **Adopting a modern drafting style.** This could include replacing outdated language, such as replacing “shall” with “must”, removing things like sandwich clauses, subsubparagraphs, and provisos, and ensuring appropriate drafting style guides are followed.
- **Better use of readers’ aids, diagrams, examples, signposts, and cross-references.** This could include things like flowcharts for GST registration or worked examples for the apportionment and adjustment rules.

- 7.12 Officials consider this type of modernisation strikes an appropriate balance between managing the impact of modernising the Act on Inland Revenue and private sector resources, and making meaningful accessibility and usability improvements to the Act.
- 7.13 Officials are also interested in submitters’ views on whether additional types of changes should be made to improve the accessibility and usability of the Act.

#### **Questions for submitters**

- Q40. Do you agree with officials’ views on the scope of a project that would modernise the GST Act? Why/why not?
- Q41. Should officials consider other enhancements to the GST Act that would improve its accessibility and usability?
- Q42. What relative priority do you consider a project modernising the GST Act should have against the other policy proposals or options discussed in this consultation paper?

## Chapter 8 – International developments: Business event services supplied to non-resident businesses

### Overview

- 8.1 One issue raised by tourism industry stakeholders is the GST treatment of business event services supplied to non-resident businesses. Both Australia and Singapore have GST rules that zero-rate certain services related to business events (such as conferences and conventions) supplied to non-resident businesses, such as attendance fees.
- 8.2 Stakeholders have suggested similar GST changes in New Zealand would address compliance costs associated with non-residents being required to register for GST to claim one-off or infrequent input tax deductions for costs related to attendance at business events in New Zealand. Officials are keen to better understand the business events sector and welcome any data or information that could assist in evaluating the potential benefits and costs of any future policy changes.
- 8.3 Zero-rating business event services supplied to non-resident businesses was previously consulted on in the 2020 officials' issues paper, "GST policy issues". Officials acknowledge the timing of the consultation period, coinciding with the COVID-19 pandemic, meant the focus of potential submitters was on responding to the pandemic and there was limited engagement with officials on the issue of the GST treatment of business event services.
- 8.4 Officials note that our consideration at this time is limited to consultation to help better understand the issue and the costs and benefits of potential changes. Officials are not currently recommending any proposed changes and the Government has not agreed to or funded any policy changes at this stage.

### Background and problem definition

- 8.5 GST is designed to be a broad-based tax on final consumption of goods and services in New Zealand. This means businesses should be able to recover any GST they incur on business expenses in a cost-effective way. This includes situations when a business sends their staff to a business event in New Zealand.
- 8.6 A business registered for GST in New Zealand can claim an input tax deduction for the GST it pays when its employees attend a New Zealand business event. The same principle applies to non-resident businesses.
- 8.7 While non-resident businesses that do not make any taxable supplies in New Zealand can claim input tax deductions by registering for GST (under section 54B of the Goods and Services Tax Act 1985 (GST Act)), many non-resident businesses are not registered and are therefore unable to recover GST paid on costs incurred in New Zealand. Officials understand that many non-resident businesses incurring GST in New Zealand choose not to register for

GST under the special registration scheme because of the compliance costs associated with registering for GST and filing a GST return to claim irregular or one-off input tax deductions, such as for business event services.

## Objectives and principles underpinning potential changes

- 8.8 The objective of any potential changes would be to provide a cost-effective way to relieve certain GST costs incurred by non-resident businesses when they acquire business event services relating to an in-person business event in New Zealand.
- 8.9 Any policy changes should:
- minimise compliance costs for non-resident businesses and suppliers of business event services in relation to in-person business events in New Zealand, and
  - provide clarity and certainty about how the rules would apply to ensure both business event organisers and non-resident businesses understand what is required of them and apply the rules consistently.

## Potential changes

- 8.10 To address the compliance costs associated with registering under section 54B to claim irregular or one-off input tax deductions, officials are considering options. For example, there may be merit in zero-rating certain services related to business events in New Zealand supplied to non-resident businesses. Business events include conferences, conventions, exhibitions, trade shows and seminars attended by businesses.
- 8.11 This could provide a practical solution to ensure all non-resident businesses do not incur GST on certain business expenses related to attending business events in New Zealand.
- 8.12 Australia and Singapore have rules that zero-rate GST on business events. The New Zealand business events industry has previously identified this as a concern because it puts New Zealand at a competitive disadvantage when attracting international business events. However, other jurisdictions, including the European Union, apply VAT/GST at full rates for in-person conferences.

## Policy design

- 8.13 Officials are seeking feedback on design options for zero-rating business event services supplied to non-resident businesses. If progressed, this would ensure that the rules were robust while also minimising compliance costs and being easy for event organisers and non-resident businesses to understand and apply.
- 8.14 The key areas for feedback include:
- the definition of “business event”
  - the definition of “eligible non-resident business”

- the scope of eligible business event services
- the bundling of business event packages, and
- obtaining further information about the business events industry in New Zealand.

### Definition of “business event”

- 8.15 Officials suggest, to be zero-rated, the services would have to relate to a business event taking place in New Zealand and attended by the recipient of the supply. This would include conferences (including academic conferences), conventions, exhibitions, trade shows or seminars attended as part of the recipient’s taxable activity.
- 8.16 “Business event” would exclude in-house events that can only be attended by employees of a company or its branches, regardless of whether the event is held in-house or at an external venue. Any definition would also exclude corporate incentive trips because the purpose of these trips is to reward the individual with recreational activities for their personal enjoyment. Any events that do not meet the criteria to be zero-rated are referred to as “excluded events” in this chapter.

### Additional criteria

- 8.17 Additional criteria could be added alongside this definition to ensure only genuine business events are in scope of the rules.
- 8.18 For example, the business event could be organised by either a New Zealand-resident or a non-resident business. However, the person organising the event must have a taxable activity of arranging or hosting business events. This may involve supplying services related to planning and coordinating a business event, including securing a suitable venue, granting the rights of exhibitors to participate in the event, and promoting the event.
- 8.19 Further criteria could include rules that for an event to qualify as a “business event”, the event would have to be held at a venue that has a purpose of hosting business events. This may include (but is not limited to) a conference centre, a hotel with conference facilities, a university, or other event space. Venues such as bars, restaurants or private residences would not be eligible venues under this criterion because these venues are not primarily used as venues for conferences, conventions or other large events.

#### **Example 15: Business events held in-house – an excluded event**

Energy Co, an energy supplier based in New Zealand, has a branch in Australia for its Australian operations. Employees from the Australian branch are sent to New Zealand to attend an event held at the premises of Energy Co’s New Zealand branch.

Only employees of Energy Co can attend the event. Therefore, the event is an excluded event.

Any fees charged to the Australian branch for the attendance of the Australian-based employees cannot be zero-rated. This would apply even if the event was ticketed or held at an external venue.

## Definition of “eligible non-resident business”

- 8.20 Officials suggest that, for a supply of business event services to a non-resident business to qualify for zero rating, the non-resident business should have to be:
- not otherwise GST registered or required to be GST registered in New Zealand
  - receiving a supply of business event services that would ordinarily be part of its taxable activity, and
  - registered for a consumption tax in the country or territory the business is resident in, or, if its country of residence does not have a consumption tax or has a consumption tax that does not apply to the person’s activities, be carrying on a taxable activity and making supplies outside New Zealand, equivalent to over \$60,000.
- 8.21 These criteria align with the criteria for registering as a non-resident under section 54B.

## Sufficient information

- 8.22 Business event organisers would have to obtain sufficient information as to whether the recipient of a supply of business event services is a non-resident business and whether it is attending the event in its business capacity to determine if the supply is zero-rated.
- 8.23 Sufficient evidence to determine whether a business is non-resident may include commercial information collected by the event organiser as part of the registration process, such as the business name and address on the business event registration form.
- 8.24 Business event organisers could also request the recipient’s New Zealand Business Number, which (if provided) would be evidence that the recipient is carrying on business in New Zealand. If an organisation declares on a registration form that it is registered for New Zealand GST, this would indicate that the attendee is representing a GST-registered organisation. In these circumstances, the business event organiser would be required to charge GST on the administration or registration fee.
- 8.25 In the case of a business event open to both the public and trade professionals, sufficient evidence to determine whether a business is attending the event in its business capacity may include a declaration from the business. If the event is only open to trade professionals, an attendee may be regarded as attending in their business capacity without requiring a declaration.
- 8.26 If information is not provided by the attendee, officials suggest that the business event organiser should assume the supply is not zero-rated and instead treat it as standard rated. If the supply is standard rated, the option for a non-resident business attendee to register for GST to claim input tax deductions under section 54B would remain.

**Example 16: Treatment/cost for non-resident vs New Zealand business**

Beautiful Roses Limited and Fancy Tulip Limited are both businesses sending their employees to a florist conference being held in New Zealand. Beautiful Roses Limited is a New Zealand business and Fancy Tulip Limited is a non-resident business based in Singapore. The conference attendance fee is \$100 excluding GST.

Beautiful Roses Limited is a New Zealand GST-registered business, so it is charged GST of \$15 on its attendance fee. It can claim an input tax deduction for the \$15 GST because it is receiving a supply of business event services that was incurred in making taxable supplies in New Zealand.

The conference organiser establishes that Fancy Tulip Limited is a non-resident business because, according to the information Fancy Tulip Limited provided when it registered its attendance at the conference:

- its address is located outside New Zealand
- it is not registered for GST in New Zealand
- it is registered for a consumption tax in Singapore, and
- its employees are attending the conference as part of the business's taxable activity.

The conference organiser treats the supply as zero-rated, meaning Fancy Tulip Limited pays \$100 to attend the conference.

Fancy Tulip Limited does not incur \$15 GST (and therefore does not need to register under section 54B to claim an input tax deduction).

**Scope of eligible business event services**

8.27 Non-resident attendees of business events would receive a range of supplies over the course of attending a business event in New Zealand. However, clear boundaries would be necessary to ensure only supplies related to the business event, and that are not for private enjoyment, are zero-rated.

***Singapore's approach***

8.28 Officials consider Singapore's zero-rating rules for business events generally provide a suitable basis for distinguishing between business and private expenditure. These rules could therefore be a model for developing any future zero-rating proposal in New Zealand. Submitters on the 2020 issues paper supported this approach.

8.29 Under Singapore's rules, any services supplied to an "overseas person" that are not for personal or private enjoyment, and are not supplies of goods in Singapore, are zero-rated. Guidance is provided by the Inland Revenue Authority of Singapore to support business attendees and event organisers to understand which services can be zero-rated.

8.30 Qualifying services supplied to a non-resident attending a business event include attendance fees, advertising services, exhibition spaces provided by an event organiser, and ancillary services:

- Attendance fees and the letting of exhibition spaces are in scope because they provide the right of attendance to the business event.
- Advertising and ancillary services are in scope when ancillary to an attendance fee or hire of exhibition space that is zero-rated.
- Any ancillary goods that are supplied separate to the attendance fee and are supplies of goods in Singapore must be standard rated.

8.31 Services related to entertainment (such as gala dinners and performances), accommodation, incentive trips and related ancillary services are subject to the standard rate of GST because this is private expenditure. However, if a recreational activity is connected to the event theme, it can be zero-rated.

### ***Options if rules are progressed in New Zealand***

8.32 Currently, a New Zealand business can claim an income tax deduction for overseas travel costs to the extent those costs have a connection with deriving assessable income or carrying on a business. If costs incurred are of a private or domestic nature, then these cannot be deducted, with apportionment required when appropriate.<sup>35</sup> Officials view this as an appropriate framework to identify the type of services that could be subject to the zero-rating rules for non-resident businesses attending business events in New Zealand.

8.33 Officials suggest that, at the discretion of the supplier, services related to business events held in New Zealand could be zero-rated. This includes attendance fees, advertising services, and the supply of exhibition spaces and ancillary services. Services related to entertainment, incentive trips and other private use would remain standard rated (subject to 15% GST). As outlined in more detail below, officials also currently consider that accommodation services (such as a stay in a hotel) should remain standard rated.

8.34 This is based on a framework that the principal supply is of services that:

- are supplied to a non-resident business
- are not of a private nature
- would not be classified as a fringe benefit if the non-resident business was instead a New Zealand resident, and
- cannot be consumed away from the business event.

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<sup>35</sup> QB22/06 – Deductibility of overseas travel expenses.

- 8.35 Unlike Singapore, officials consider that entertainment connected with the event theme should not be zero-rated. This is to ensure that clear boundaries between private and business expenditure remain.
- 8.36 Officials welcome submissions on whether the criteria set out below would provide sufficient clarity on the scope of services that could be zero-rated, and whether there are any services that are not expressly mentioned that should be included or excluded from any potential new rule.

### ***Supply of goods or services as part of principal supply of services***

- 8.37 Reflecting Singapore's approach, officials suggest that when a supply of goods or services is an ancillary component of a principal supply of business event services, the GST treatment of these goods or services would be determined by the GST treatment of the principal supply. For example, when an event organiser supplies food or utilities as part of the supply of attendance services or exhibition services to non-resident business attendees or exhibitors, the entire supply may be zero-rated.
- 8.38 For integrity purposes, when any part of a zero-rated supply includes goods or services relating to accommodation or entertainment, that part of the supply would not qualify for zero-rating. The business event organiser would need to apportion the consideration for the supply and standard rate the portion of supplies relating to accommodation or entertainment using actual costs incurred. Additionally, goods or services consumed away from the business event venue would remain standard rated because the supply of these goods and services would be a separate supply from the event itself.

#### **Example 17: Conference dinner as part of conference**

As part of attending an IT conference in Auckland, the organiser has arranged a conference dinner at a restaurant away from the conference venue for attendees to meet and socialise responsibly.

The conference dinner is separate to the conference, so the fee for the dinner event must be treated separately from the conference attendance fee on the invoice, with the ticket to attend the dinner being treated as a standard-rated supply. This is because the dinner is a service of a private nature (entertainment) and is consumed away from the conference venue.

#### **Example 18: Ancillary goods (to attendance fee)**

Following on from the example above.

The IT conference attendance fee also includes a small lunch provided as part of the conference. The food is supplied by the conference venue food suppliers, and the food is consumed during the conference event.

The food is ancillary to the supply of the conference services to the conference attendees, and the cost of the food is included in the conference attendance fee. This means the supply of food is part of the supply of conference services to an attendee and is consequently zero-rated when the supply of the conference ticket is to a non-resident business.

The conference organisers have also set up a coffee cart for attendees to purchase food and drinks throughout the day. These goods are purchased separately from the supply of conference attendance and are not included in the attendance fee. Therefore, the supply of these goods must be treated as standard rated.

### **Example 19: Ancillary goods and services (to exhibition fee)**

Following on from the examples above.

The IT conference has also offered space for exhibitors to showcase their products to the conference attendees.

Several non-resident businesses register to be exhibitors. They pay a fee that grants them attendance to the event and provides them with a space to promote their products to conference attendees. The exhibition fee includes rental of the space, power and a small table. The power used and the rental of the small table are ancillary to the supply of conference exhibition services and bundled into the supply of exhibitor services to these businesses. The entire supply of conference exhibition services (including the ancillary services) to a non-resident business is zero-rated.

However, businesses at the IT conference can alternatively pay an exhibition fee that grants attendance to the event and provides the business with a space to promote its goods and services, but without hire of equipment such as tables being included. Exhibitors may either organise their own hire or arrange hire through the conference organiser. In either case, the supply of hired equipment is standard rated because it is not ancillary to the zero-rated supply of exhibition services.

### **Supply of accommodation services**

- 8.39 In the 2020 consultation, submitters agreed that the supply of accommodation should always be standard rated because the accommodation was considered private consumption and consumed away from the business event. Officials remain of the view that the supply of accommodation should remain standard rated in all circumstances, in line with similar rules in other jurisdictions.
- 8.40 However, officials are interested in submitters' views on whether this is appropriate in all circumstances, such as when the accommodation services are supplied by a business event organiser as part of a package of business event services for which a single attendance fee is charged (rather than supplied directly by the accommodation supplier to a non-resident business). The proposed GST treatment of business event packages is discussed below.

- 8.41 Ordinarily, a New Zealand-resident business would claim an input tax deduction for accommodation used in making taxable supplies (such as when sending employees on business trips and booking hotel accommodation for them). Any rule allowing for zero-rating of accommodation services would need to minimise compliance costs for accommodation providers, while ensuring GST is not a cost borne by a non-resident business when it uses the relevant goods and services in its taxable activity, and that the integrity of the rules is maintained.

### **Corporate incentive tours**

- 8.42 A supply of a corporate incentive tour to a non-resident business would not qualify for zero-rating under any potential changes. This is because the primary purpose of a corporate incentive tour is to reward the employee with recreational activities for their personal enjoyment.
- 8.43 This is consistent with the fact that similar incentives provided to New Zealand employees as rewards for their work would be liable for fringe benefit tax and subject to GST because such rewards represent private consumption.
- 8.44 Supplies of entertainment that would otherwise have been subject to section 211 of the GST Act if a New Zealand employer provided the entertainment to an employee would also not qualify for zero-rating under any proposed changes.

### **Bundling of business event packages**

- 8.45 Attendance fees or tickets to business events may be bundled with other services, for example tourist activities, transport, or tickets to welcome functions or award dinners.
- 8.46 These services should be classified as private expenditure and standard rated because they can be consumed away from the business event and for personal enjoyment.
- 8.47 If a business event package includes zero-rated supplies (for example, the ticket or attendance fee to the business event) and standard-rated supplies (for example, a ticket to a conference dinner), then the invoice would need to split out the zero-rated supplies and standard-rated supplies as appropriate.
- 8.48 Officials acknowledge this treatment could provide a greater incentive to bundle other services into a business event package in an attempt to zero-rate all the services (on the basis that the dominant element of the supply is attendance to a business event and a single fee is charged that cannot easily be split out between the different goods and services supplied). As an integrity rule, if the business event fee is unable to be split out in this way, then all supplies within the package or bundle would be standard rated.
- 8.49 Officials are interested in what types of services are typically bundled in a business event package, and whether the suggested approach is appropriate to ensure private expenditure is not zero-rated while minimising additional compliance costs on event organisers.

## Treatment of virtual attendees

- 8.50 Hybrid and virtual conferences have become more common since the COVID-19 pandemic, which has led to some jurisdictions considering their VAT/GST treatment.
- 8.51 Officials consider the existing GST rules applying to virtual conference attendance are appropriate. In the case of a virtual conference hosted by a New Zealand-resident organiser, any services supplied remotely to non-residents located outside New Zealand are zero-rated. In the case of a virtual conference organised by a non-resident and attended by a New Zealand resident, the remote services rules would apply.

## Obtaining information about business events industry

- 8.52 Officials would also like to understand the current landscape of the business events industry in New Zealand to assess the reach of any potential changes. Officials are interested in any data or information that could assist in illustrating the benefits and costs of any potential changes. Submitters are invited to provide, together with any other information they consider relevant, the following specific information to support advice to Ministers on the possible economic impact of any potential changes:
- The average cost of conference and convention fees, and sponsorship packages, for non-resident and resident businesses.
  - The likely number of non-resident conference and convention attendees in a given year.
  - The likely number of conferences, with non-resident attendees, occurring in a given year.

### Questions for submitters

- Q43. What do you see as the main benefits, costs, and potential risks of zero-rating GST on business event services supplied to non-resident businesses? Do you have any data or information that could assist officials with estimating these benefits and costs?
- Q44. What information would be required to enable a business event organiser to determine whether a business attendee is a non-resident? What challenges may arise for business event organisers or attendees in obtaining or supplying that information?
- Q45. The potential zero-rating rule could include criteria that requires a business event to be organised by an event organiser with a taxable activity of hosting or arranging business events. Are there situations in which a business will organise an event themselves without contracting the services of an event organiser?

**Questions for submitters**

- Q46. What types of services related to business events could qualify for zero-rating? How could these services be defined to provide certainty and reduce the risk of private consumption, such as tourism activities, becoming zero-rated? What operational guidance would be helpful to the business events industry to determine which services are in or out of scope of any zero-rating rules?
- Q47. It is currently suggested that accommodation be standard rated in all circumstances. Do you have a view on whether accommodation should be zero-rated when it is supplied by the conference organiser as part of a business event package?
- Q48. What services are typically bundled in business event attendance fees (for example, gala dinners, accommodation, tours)? Is the treatment of business event packages suggested appropriate?

## Chapter 9 – Other international developments

### Overview

- 9.1 This chapter outlines selected international developments in GST/VAT administration that are relevant to New Zealand. It focuses on digital reporting tools and administrative levers that some jurisdictions are using to address non-compliance. We summarise how these approaches work, officials' current views, and questions we want to test with interested parties.
- 9.2 International practice in these areas is evolving quickly, with several jurisdictions recently signalling or announcing significant shifts in these areas. Further change is likely over the medium term.

### E-invoicing and transaction-level reporting

- 9.3 E-invoicing refers to the electronic creation, exchange, and processing of invoice data in a structured digital format, often using common standards and networks. In some countries, e-invoicing is optional and business-driven. In others, it is mandated for tax administration purposes, with invoice data transmitted to tax authorities either in real time or near real time.
- 9.4 From a business perspective, e-invoicing is widely viewed as a tool to improve efficiency and data quality. Businesses that have adopted e-invoicing often report benefits such as improved record-keeping, automated processing of invoices, fewer data entry errors, improved reconciliation, and faster payment cycles. These benefits are commonly reported anecdotally by adopters, although they may not be experienced uniformly across all businesses and may depend on factors such as firm size, system maturity, and the extent of integration with existing software.
- 9.5 Adopting e-invoicing can also involve transition costs. These may include changes to systems and processes, staff training, and integration with accounting software or trading partners. While such costs may be manageable or outweighed by longer-term efficiency gains for many businesses, they could be more challenging for some taxpayers, particularly if e-invoicing were required primarily to meet tax administration or compliance objectives rather than adopted voluntarily for business reasons.
- 9.6 E-invoicing can also be used as enabling infrastructure for tax administration. In some jurisdictions, invoice data is transmitted to tax authorities in real time or near real time as part of the invoicing process. This can provide tax authorities with earlier access to transaction information and potentially reduce reliance on periodic returns alone. However, e-invoicing does not, itself, require that transaction-level data be continuously reported to tax authorities, and e-invoicing systems can be designed in ways that do not involve automatic data sharing with tax authorities.

- 9.7 Digital continuous transaction reporting (DCTR) generally involves GST/VAT-registered persons providing transaction-level invoice data to tax authorities on an ongoing, automated basis. This information may be provided at the time an invoice is issued, alongside GST returns, or on a near real-time basis. In practice, DCTR regimes typically depend on widespread adoption of structured e-invoicing because transaction-level reporting is difficult to implement at scale using unstructured invoices.
- 9.8 It is therefore useful to view e-invoicing and DCTR as related approaches that sit along a spectrum, differing in their objectives, scope, and degree of data sharing with tax authorities, rather than as discrete policy tools.

## International experience

- 9.9 International approaches to e-invoicing and digital reporting vary widely and are continuing to evolve.
- 9.10 Some countries, including Australia and Canada, have focused on encouraging voluntary uptake of e-invoicing. These approaches are often supported by common technical standards and government procurement rules, such as requirements for government agencies to be capable of receiving e-invoices, rather than by tax-specific mandates. New Zealand has taken a similar approach to date, including through government procurement requirements that encourage suppliers to be capable of e-invoicing.
- 9.11 Other countries have moved further and introduced mandates for e-invoicing, sometimes alongside requirements to transmit invoice data to tax authorities. For example, Singapore has introduced a phased requirement for certain GST-registered businesses to transmit invoice data to the tax authority using its national e-invoicing framework.<sup>36</sup> The United Kingdom has also announced an intention to mandate e-invoicing for VAT purposes from 2029, with detailed design features still under development and subject to further consultation.
- 9.12 The European Union is also progressing significant reforms through its VAT in the Digital Age programme,<sup>37</sup> which will introduce digital reporting requirements and mandatory e-invoicing for certain cross-border transactions and enable wider domestic mandates within Member States.
- 9.13 Taken together, these developments suggest that New Zealand's current approach is more cautious than some comparable jurisdictions. Officials consider it important to test with submitters whether New Zealand should continue on this basis, or whether there is a case for

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<sup>36</sup> Singapore's GST registration threshold is S\$1 million of taxable turnover, which is significantly higher than New Zealand's \$60,000 threshold. Singapore has also adopted a phased implementation of its e-invoicing requirements, with obligations initially applying to new and voluntary GST registrants and expanding over time to existing GST-registered businesses.

<sup>37</sup> European Commission, Directorate-General for Taxation and Customs Union, *VAT in the Digital Age (ViDA)*, [https://taxation-customs.ec.europa.eu/taxation/vat/vat-digital-age-vida\\_en](https://taxation-customs.ec.europa.eu/taxation/vat/vat-digital-age-vida_en)

moving, over time, toward approaches taken in countries such as Singapore and the United Kingdom.

## Officials' views

- 9.14 Inland Revenue officials support efforts to increase uptake of e-invoicing on a voluntary basis, particularly because of the business efficiency and record-keeping benefits that are commonly reported by adopters. Improved systemisation of invoicing may also support better compliance behaviours over time, for example by reducing errors and improving quality of business records.
- 9.15 However, we consider that the tax compliance impacts of e-invoicing in a New Zealand context are uncertain and largely untested. There is limited evidence from jurisdictions with GST or VAT systems that closely resemble New Zealand's that allows the incremental compliance benefits of e-invoicing, as distinct from other reforms or administrative practices, to be clearly identified or quantified. Officials therefore consider there is a risk of both overstating and understating the potential compliance benefits of these approaches.
- 9.16 For these reasons, officials consider that the case for a tax-driven mandate for e-invoicing has not been established at this time. In particular, mandating e-invoicing primarily for tax administration or compliance purposes could impose transition and ongoing compliance costs on some taxpayers without a clear evidence base demonstrating that such costs would be proportionate to the compliance gains achieved.
- 9.17 On the other hand, officials also recognise that there are inherent limits on the extent to which definitive evidence is likely to be available to support or refute the case for compulsory e-invoicing. Inland Revenue does not currently measure the GST gap in New Zealand, and it is difficult in practice to isolate the impact of individual administrative tools, such as e-invoicing, on overall compliance outcomes. International experience likewise does not provide clear or directly comparable evidence that would allow compliance effects of e-invoicing to be quantified with confidence in a New Zealand context.
- 9.18 Officials therefore do not expect that a clear evidential "trigger point" will emerge at which the case for a mandate becomes obvious based on data alone. Instead, some stakeholders consider that e-invoicing may increasingly be viewed as a normal feature of modern tax systems, justified based on likely (but difficult to measure) compliance benefits alongside more widely reported business efficiency and productivity benefits. Officials consider it important to test these views through consultation, rather than assuming that the case for or against compulsory e-invoicing can only be resolved through definitive empirical evidence.
- 9.19 If New Zealand were to consider compulsory e-invoicing in the future, officials note that international experience suggests such reforms are typically introduced with long lead times, allowing taxpayers sufficient time to adjust systems and processes. Officials also consider it would be important to be clear about how any additional information collected would be

used to support tax administration and improved compliance outcomes, including how it would complement existing compliance tools.

- 9.20 Officials are more cautious again about the introduction of system-wide DCTR. Requiring transaction-level data to be provided on an ongoing basis could be costly for taxpayers to comply with and would require Inland Revenue to develop the capability to meaningfully analyse and use large volumes of data. International experience with DCTR remains unsettled, and some jurisdictions that have committed to such regimes are still developing how transaction-level data will be translated into improved compliance outcomes.
- 9.21 Officials also note that, unlike some other jurisdictions, Inland Revenue receives some transaction-level data on a targeted basis from payment service providers under existing bulk data regulations. More generally, officials consider e-invoicing and transaction-level reporting alongside a broader set of emerging initiatives, such as open banking, wider payments system modernisation, and split payment mechanisms for VAT/GST collection. These initiatives are not assessed in isolation. Instead, officials consider how different tools may complement or substitute for one another, and which combinations are likely to best meet Inland Revenue's information and compliance needs at the lowest overall cost to taxpayers and the tax system.
- 9.22 Officials will continue to monitor international developments and emerging evidence, and are open to submitters' views on whether, and how, New Zealand's approach to e-invoicing and digital reporting should evolve over time.

#### **Questions for submitters**

- Q49. What are your views on the business benefits of e-invoicing, based on your own experience or that of your customers or suppliers?
- Q50. Do you consider that e-invoicing could deliver material tax compliance benefits in a New Zealand context? Why/why not?
- Q51. Given approaches taken in other countries such as Singapore and the United Kingdom, do you think New Zealand should continue with a voluntary approach to e-invoicing, or consider moving over time toward compulsory requirements?
- Q52. If e-invoicing were ever to become compulsory in New Zealand, what lead times, transitional arrangements, or scope limitations would be important to ensure impacts on businesses are proportionate?
- Q53. How important is clarity about how invoice-level information would be used by Inland Revenue to support tax administration and compliance outcomes in assessing whether compulsory e-invoicing would be appropriate?
- Q54. How should e-invoicing and transaction-level reporting be considered alongside other initiatives, such as payment service provider reporting or open banking, when assessing options to support GST compliance?

## Increasing filing frequency for non-compliant taxpayers

9.23 Officials are aware that a small number of jurisdictions are testing whether requiring more frequent GST/VAT returns for high-risk taxpayers can improve compliance outcomes. In Australia, the Australian Taxation Office is using existing powers to move some taxpayers with a history of persistent non-compliance from quarterly to monthly GST filing. This targeted approach is intended to test whether more regular reporting supports earlier identification and management of tax debt. It only applies to a subset of higher-risk taxpayers (rather than changing filing frequencies across the GST system as a whole).

### Officials' views

9.24 Officials have considered whether increasing GST filing frequency for non-compliant taxpayers could improve payment outcomes in New Zealand. Early analysis of domestic data suggests that there is little difference in payment compliance across existing filing frequencies, indicating that filing frequency alone is unlikely to resolve underlying debt or disengagement issues.

9.25 On the other hand, more frequent returns could allow for earlier identification of debt, and this could lead to swifter resolution of debt. Officials are cognisant that this would not be without cost because increasing the frequency of GST returns will increase taxpayer compliance costs. There is also a risk that it might disengage some taxpayers, meaning more overdue returns, late filing penalties, and default assessments, which would run contrary to the objective of improving debt outcomes.

9.26 One option could be to limit the availability of six-monthly filing to taxpayers who had demonstrated a history of good compliance with filing returns and paying GST on time. This could apply to new registrants who could be defaulted to two-monthly filing for a period of 12 months. If the taxpayer wanted to file six-monthly GST returns following that period, they could apply to the Commissioner of Inland Revenue for approval to do this.

9.27 Another option is a more targeted discretion that would enable the Commissioner to direct a person to change their GST filing frequency when the Commissioner considers that, due to past behaviour, the person is at risk of non-compliance. This would be more like the powers available to the Commissioner of the Australian Taxation Office.

#### Questions for submitters

Q55. Do you think there is merit in limiting six-monthly filing for new GST registrants to those who have demonstrated a good compliance history? Why/why not?

Q56. Do you think the Commissioner should have the discretion to require a person to provide more regular GST returns if they have a demonstrated history of non-compliance? If not, what concerns do you have with this?

## Appendix – Questions for submitters

Inland Revenue invites submissions on the issues raised in this document, including the specific questions:

### Chapter 2 – Dwellings and commercial dwellings

- Q1. Do you agree with officials' suggestion of adding certain premises (namely, self-contained houses, flats and apartments) used for transitional housing as a new category to the definition of "dwelling"? Would this option be an improvement over the status quo? Why/why not?
- Q2. Do you agree with officials' suggestion of adding a new student accommodation category to the "commercial dwelling" definition so that all premises used for student accommodation that is subject to section 5B of the RTA would be commercial dwellings? Would this option be an improvement over the status quo? Why/why not?
- Q3. Are there other issues or uncertainties that arise due to the quiet enjoyment requirement in the "dwelling" definition that are not identified in this chapter and that you think should be considered? If there are, briefly explain what these issues are. Are further targeted changes to either of the "dwelling" or "commercial dwelling" definitions necessary to address these issues?
- Q4. Do you think that more wide-ranging changes to the quiet enjoyment requirement beyond the targeted changes suggested above for transitional housing and student accommodation (for example, repealing the quiet enjoyment requirement or replacing it with an alternative test) are necessary or justified? If yes, why, and what alternative approach would you suggest?
- Q5. What are your views on adding premises (or part of premises) to the catch-all provision in the "commercial dwelling" definition if the supply of accommodation in the premises includes certain regular services? Would this make the "commercial dwelling" definition easier to apply? Why/why not?
- Q6. Do you agree with officials' alternative suggestion of adding wording to the "commercial dwelling" clarifying that accommodation provided in a commercial dwelling would generally meet at least one of the two criteria outlined at [2.67]? Would adding such wording to the definition be helpful for taxpayers and their advisors? Why/why not?
- Q7. Do you agree with excluding part of a homestay or farmstay from the "commercial dwelling" definition if that part of the premises satisfies the definition of a "dwelling"? Why/why not?
- Q8. Are any of the policy options identified in this chapter likely to have direct impacts for Māori? If yes, please explain what these impacts are.
- Q9. Do the current definitions of "dwelling" and "commercial dwelling" create any issues for Māori housing arrangements? If yes, please explain what these issues are.
- Q10. What features of Māori housing arrangements should be specifically reflected in the policy design to ensure the rules are workable and equitable?

- Q11. Do you have views on how any boundary test focused on the nature of occupation (for example, “quiet enjoyment”) should be applied in tikanga-based housing settings?
- Q12. Are there other issues or uncertainties that arise due to the current definitions of “dwelling” and “commercial dwelling” that are not identified in this chapter and that you think officials should consider? If there are, briefly explain what these issues are.
- Q13. Are there other options for achieving the policy intention of the “dwelling” and “commercial dwelling” definitions or for making these definitions easier to apply that are not identified in this chapter and that should be considered? Describe these options.
- Q14. Do you agree there should be a transitional rule that accommodation suppliers could choose to apply to preserve the current treatment of supplies of accommodation if they are altered as a result of any policy changes? Why/why not?

### **Chapter 3 – Electricity exported to grid by residential premises**

- Q15. Do you agree with the proposal outlined in this chapter? Why/why not?
- Q16. Would it simplify matters for retailers if there was also an exception to the requirement to provide taxable supply information (including buyer-created taxable supply information) in respect of surplus electricity purchased from account holders?

### **Chapter 4 – Cross-border issues**

- Q17. If the definition of “resident” was amended to only apply when the supplier owns, leases or rents the premises, would this be an effective way to reduce compliance costs?
- Q18. Should an expanded business-to-business exclusion treat certain business-to-business supplies (such as supplies of services) by a non-resident as not being made in New Zealand if those supplies would otherwise be treated as made in New Zealand because an employee of the non-resident is performing work at the premises of a New Zealand GST registered client? Would this approach be an effective way to remove GST compliance costs on non-resident persons who temporarily visit New Zealand to perform work at the premises of their GST registered client?
- Q19. Are there certain types of premises (such as a non-resident supplier temporarily renting a co-working space in New Zealand) that officials should consider when developing potential policy options?
- Q20. Should the ability to disregard certain zero-rated supplies of exported services for the purposes of the GST registration threshold be expanded so that this approach can be used by suppliers other than “non-resident visitors” and/or for other types of zero-rated supplies?
- Q21. Should the suggested solution above be limited to certain types of suppliers, such as non-residents, or be limited to certain types of zero-rated supplies, such as services?

### **Chapter 5 – Correcting errors and inaccuracies**

- Q22. Should the current small-value thresholds be adjusted, replaced, or structured along the lines suggested? Are there other options that should be considered?

- Q23. Is the overall error correction framework set out in this chapter clear and workable in practice? In particular, does the proposed distinction between single-person errors and multi-person adjustments make sense from a commercial perspective?
- Q24. Does the proposed framework align with how errors are identified and corrected in practice, including through accounting software and e-invoicing systems? If not, where do you see the mismatches between the framework and current commercial or system-driven processes?
- Q25. Are the proposed limits on when errors and inaccuracies may be corrected prospectively (including exceptions to prospective correction) logical and appropriate? Are there any exceptions that you consider should be modified, expanded, or removed?
- Q26. Are there scenarios where you consider the proposed framework could be difficult to apply, or could lead to outcomes that are inappropriate, undesirable, or inconsistent with the policy intent? If so, please describe the scenario and explain why the outcome would be inappropriate.
- Q27. For users of automated or system-generated correction processes (for example, automated credit notes or corrections generated through e-invoicing platforms), are there situations where those processes would not fit comfortably within the framework? If so, what are those situations?
- Q28. Are there aspects of the framework that could unintentionally discourage the use of automated, system-driven, or coordinated correction processes? If so, please explain how and why.
- Q29. If you agree with the framework (or consider it appropriate with modifications), do you agree it should apply from the day after the Royal assent of any amending legislation? Please explain your reasons.
- Q30. Do you consider the extra four-year period for refunds of overpaid tax in GST returns arising from clear mistakes or simple oversights should remain despite it no longer existing for other tax types? If so, why?
- Q31. Are there circumstances when input tax that should be allowed to be deducted that would no longer be able to be deducted if the clear mistake or simple oversight ground was removed, even though other limited grounds for late deduction would remain available? If so, please describe the circumstances.

## **Chapter 6 – Miscellaneous issues**

- Q32. Do you agree the current rules can produce unfair or anomalous outcomes when goods and services acquired shortly before GST registration are used for making taxable supplies, but no input tax deduction is available?
- Q33. What are your views on the options discussed? In particular, what limits or conditions would be necessary to protect revenue integrity and prevent inappropriate claims?
- Q34. If an “entry into the GST base” rule was introduced, do you agree that the input tax deduction should be capped at the lower of the original cost of the goods or services or the

open market value at the time they first start being used to make taxable supplies? If not, why?

- Q35. If an “entry into the GST base” rule was introduced, should it apply to services as well as goods, and if so, should it apply only to the extent the services are still capable of being used to make taxable supplies (for example, because they involve an unexpired right or entitlement)? What practical or compliance issues would arise if services were included or excluded?
- Q36. Do you support introducing a separate GST group registration that is distinct from the representative member, so that for administrative purposes, a group for GST purposes would work similarly to how a group works for income tax purposes? Why/why not?
- Q37. Are there any concerns (such as compliance costs) or any other issues you foresee with this approach?
- Q38. Do you agree with officials’ suggested change to section 9(6)? Why/why not?
- Q39. Do you agree with amending the definition of “participatory security” to include an interest in an unincorporated body? Why/why not?

### **Chapter 7 – Modernising the Goods and Services Tax Act**

- Q40. Do you agree with officials’ views on the scope of a project that would modernise the GST Act? Why/why not?
- Q41. Should officials consider other enhancements to the GST Act that would improve its accessibility and usability?
- Q42. What relative priority do you consider a project modernising the GST Act should have against the other policy proposals or options discussed in this consultation paper?

### **Chapter 8 – International developments: Business event services supplied to non-resident businesses**

- Q43. What do you see as the main benefits, costs, and potential risks of zero-rating GST on business event services supplied to non-resident businesses? Do you have any data or information that could assist officials with estimating these benefits and costs?
- Q44. What information would be required to enable a business event organiser to determine whether a business attendee is a non-resident? What challenges may arise for business event organisers or attendees in obtaining or supplying that information?
- Q45. The potential zero-rating rule could include criteria that requires a business event to be organised by an event organiser with a taxable activity of hosting or arranging business events. Are there situations in which a business will organise an event themselves without contracting the services of an event organiser?
- Q46. What types of services related to business events could qualify for zero-rating? How could these services be defined to provide certainty and reduce the risk of private consumption, such as tourism activities, becoming zero-rated? What operational guidance would be

helpful to the business events industry to determine which services are in or out of scope of any zero-rating rules?

- Q47. It is currently suggested that accommodation be standard rated in all circumstances. Do you have a view on whether accommodation should be zero-rated when it is supplied by the conference organiser as part of a business event package?
- Q48. What services are typically bundled in business event attendance fees (for example, gala dinners, accommodation, tours)? Is the treatment of business event packages suggested appropriate?

### **Chapter 9 – Other international developments**

- Q49. What are your views on the business benefits of e-invoicing, based on your own experience or that of your customers or suppliers?
- Q50. Do you consider that e-invoicing could deliver material tax compliance benefits in a New Zealand context? Why/why not?
- Q51. Given approaches taken in other countries such as Singapore and the United Kingdom, do you think New Zealand should continue with a voluntary approach to e-invoicing, or consider moving over time toward compulsory requirements?
- Q52. If e-invoicing were ever to become compulsory in New Zealand, what lead times, transitional arrangements, or scope limitations would be important to ensure impacts on businesses are proportionate?
- Q53. How important is clarity about how invoice-level information would be used by Inland Revenue to support tax administration and compliance outcomes in assessing whether compulsory e-invoicing would be appropriate?
- Q54. How should e-invoicing and transaction-level reporting be considered alongside other initiatives, such as payment service provider reporting or open banking, when assessing options to support GST compliance?
- Q55. Do you think there is merit in limiting six-monthly filing for new GST registrants to those who have demonstrated a good compliance history? Why/why not?
- Q56. Do you think the Commissioner should have the discretion to require a person to provide more regular GST returns if they have a demonstrated history of non-compliance? If not, what concerns do you have with this?