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A special report from the
Policy Advice Division of Inland Revenue

GST changes relating to the Emissions Trading Scheme

The Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009 made a number of changes to the Goods and Services Tax Act 1985 that deal with the GST consequences of allocating and trading in emissions units. This special report outlines those changes, some of which took effect from enactment. It is for the early information of affected taxpayers and their advisors. A more detailed account of the GST changes in the new Act, as well as several income tax changes relating to emissions units, will be published in a *Tax Information Bulletin* later in the year.

Background

The Climate Change Response (Emissions Trading) Act 2008 introduced the Emissions Trading Scheme. That Act creates obligations for certain participants to surrender emissions units commensurate with the emissions associated with their activities. It also provides mechanisms for certain participants to receive emissions units for carbon capture and other removal activities and for others to be allocated emissions units by government.

The Climate Change Act also amended the GST Act by inserting new paragraphs (s), (t), (u) and (v) into section 11A(1). Transactions in New Zealand units, Kyoto-compliant emissions units and “approved overseas units” were zero-rated. The supply of services in exchange for emissions units received from government under the Climate Change Act was also zero-rated.

Key features

(Sections 11A(1)(s) and 11A(1)(v))

Technical amendments have been made to reflect the original policy intention of the GST amendments made in the Climate Change Act, particularly in relation to emissions units which are transferred by the government under schemes outside the Climate Change Act.

Amendments have also been made to extend zero-rating to certain emissions units which are not New Zealand units, Kyoto-compliant emissions units or approved overseas units.

Emissions units transferred under the Permanent Forest Sink Initiative

The Permanent Forest Sink Initiative (PFSI) is a government scheme under which landowners can establish permanent forest sinks on land that was not forested on 31 December 1989, and receive emissions units reflecting the amount of carbon sequestered in their forests. For more information, see www.maf.govt.nz/forestry/pfsi.

The zero-rating of the transfer of emissions units by the government under PFSI has been added to paragraph (s).

This change has the consequential effect of zero-rating the supply of services made by the forester in exchange for the emissions units (whether it is an actual supply or a deemed supply under section 5(6D)).

Application date

This change took effect from, 6 October 2009.

Other transfers of emissions units by government

The changes above zero-rate the transfer of emissions units under PFSI, and transfers under the Climate Change Act are also zero-rated (along with, in both cases, contra-supplies made by recipients of these units).

Section 11A(1)(v) is a provision intended to zero-rate transactions in emissions units in the private sector, and the sale of emissions units by the government. It is not intended to apply where the government transfers emissions units without payment. The section has been amended to make this clear. Accordingly, the transfer of emissions units by government under schemes such as Project to Reduce Emissions (PRE) and Negotiated Greenhouse Agreements (NGAs) revert to being standard-rated, although any subsequent transfers of such units will be zero-rated under paragraph (v).

A table showing the GST position of different transactions at different times is set out at the end of this report.

This change took effect from 6 October 2009.

Zero-rating of other types of emissions units

The provisions referred to above apply to transactions in New Zealand units, Kyoto-compliant units and approved overseas units. New provisions also zero-rate certain other emissions units which do not fall within this description – sometimes called “grey market” or “voluntary” units.

The new provisions apply to units which are:

- issued by reference to the sequestration, or avoidance of emission, of human-induced greenhouse gases; and
- verified to an internationally recognised standard.

Examples of the type of units which will qualify for zero-rating under the new rules are Voluntary Carbon Standard units (www.v-c-s.org) and Gold Standard units (www.cdmgoldstandard.org).

Application date

This change takes effect from 1 April 2010.

Summary table

The following table sets out all the different types of emissions units transactions, and their GST treatment, that are set out in legislation.

Transaction	From / to	GST treatment	Legislative reference
<i>Common transactions – New Zealand units, Kyoto-compliant units and approved overseas units</i>			
All supplies of emissions units.	before 1 January 2009	standard-rated	ordinary provisions
All supplies of services (deemed or actual) made in exchange for emissions units.	before 1 January 2009	standard-rated	ordinary provisions
Transfer of emissions units by government under s64 or part 4, subpart 2, of the Climate Change Response Act 2002.	1 January 2009 onwards	zero-rated	GST Act s11A(1)(s)
All supplies of services (deemed or actual) made in exchange for emissions units transferred by government under s64 or part 4, subpart 2, of the Climate Change Response Act 2002.	1 January 2009 onwards	zero-rated	GST Act s11A(1)(u)
Surrender of emissions units under s63 of the Climate Change Response Act 2002.	1 January 2009 onwards	zero-rated	GST Act s11A(1)(t)
Supply of New Zealand units and Kyoto-compliant emissions units not involving the government.	1 January 2009 onwards	zero-rated	GST Act s11A(1)(v)

Transaction	From / to	GST treatment	Legislative reference
<i>Voluntary units</i>			
All supplies of voluntary units.	Before 1 April 2010	standard-rated	ordinary provisions
All supplies of services (deemed or actual) made in exchange for voluntary units.	at all times	standard-rated	ordinary provisions
All supplies of voluntary units.	1 April 2010 onwards	zero-rated	GST Act s11A(1)(w)
<i>Transactions involving the government outside the Emissions Trading Scheme</i>			
Transfer of emissions units by government other than under s64 or part 4, subpart 2, of the Climate Change Response Act 2002 (eg, PFSI, PRE and NGA).	1 January 2009 to 6 October 2009	zero-rated	GST Act s11A(1)(v) prior to amendment by this Act
Supplies of services (deemed or actual) made in exchange for emissions units transferred by government other than under s64 or part 4, subpart 2, of the Climate Change Response Act 2002 (eg, PFSI, PRE and NGA).	1 January 2009 to 6 October 2009	standard-rated	ordinary provisions
Transfer of emissions units by government under PFSI.	6 October 2009 onwards	zero-rated	GST Act s11A(1)(s)(iii)
Supply of services (deemed or actual) made in exchange for emissions units transferred by the government under PFSI.	6 October 2009 onwards	zero-rated	GST Act s11A(1)(u)
Transfer of emissions units by government other than under s64 or part 4, subpart 2, of the Climate Change Response Act 2002 or PFSI (eg, PRE).	6 October 2009 onwards	standard-rated	ordinary provisions