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Special report on GST apportionment and adjustment rules

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This special report provides early information on changes to the GST apportionment and adjustment rules ahead of an upcoming edition of the *Tax Information Bulletin*.

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Overview

The Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 makes changes to the GST apportionment and adjustment rules that would reduce the compliance costs they impose on businesses and better align them with current taxpayer practices. The main changes include:

- introducing a principal purpose method for goods and services acquired for \$10,000 or less (GST exclusive) that allows a registered person to claim a full GST input tax deduction (instead of apportioning the deduction based on the percentage taxable use)
- no subsequent adjustments are made for goods or services acquired for \$10,000 or less
- reducing the number of adjustment periods that GST-registered persons need to monitor their percentage actual use of assets and make annual adjustments to ten years for land and two years for goods and services acquired for between \$10,000 to \$20,000 (GST exclusive), and
- allowing GST-registered persons to elect to treat certain goods that have mainly private or exempt use, such as dwellings, as if they only had private or exempt use. This means no input tax deduction is claimed when purchasing the goods, and no output tax is charged when the goods are sold.

Background

To ensure GST is not a cost on business production, businesses can claim input tax deductions on purchases of goods and services they use to make taxable supplies. However, where the asset is used both to make taxable supplies and for non-taxable use, such as a van delivering packages during the week and used privately in the weekend, the taxpayer can only deduct a percentage of the total input tax deduction. The deduction is based on their estimate of the percentage of taxable use. This is known as apportionment. Apportionment ensures GST is collected on the asset's non-taxable use.

Once a business has claimed an input tax deduction based on their estimated taxable use, they are generally required to monitor their actual use of the asset over time. If the estimate is inaccurate, they must account for this difference in their GST return at the end of each adjustment period (tax year). This is known as an adjustment or change in use.

The previous GST apportionment and adjustment rules were complex and imposed high compliance costs. For example, the apportionment rules apply to all goods and services acquired by registered persons. This imposed undue compliance costs for low-value assets,

such as computers, phones, and tools, which often only have a minor amount of private or exempt use.

Also, the previous rules could generate large and unexpected GST liabilities. For example, if a registered person sold an asset (for example, land or a dwelling) that they had used a small percentage of to make taxable supplies (for example, as a home office or workshop), the sale could be a taxable supply. However, such disposals would often not be taxable supplies if a different ownership structure had been used, for example, owning the asset through a company, partnership or trust that was separate to the registered person using part of the asset in their taxable activity.

To address these issues, reforms have been made to reduce business compliance costs, better align the rules with current taxpayer practices, and improve fairness between different types of ownership structures.

Key features

The amendments have made the following key changes:

- For goods and services acquired for \$10,000 or less (GST exclusive), there is a new principal purpose method in sections 20(3CB) and (3CC) of the Goods and Services Tax Act 1985 (GST Act). This method allows a registered person to claim a full GST input tax deduction for goods or services that they acquired for the principal purpose of making taxable supplies. This is instead of applying the apportionment or adjustment rules. If a registered person chooses not to apply the principal purpose method, they will be required to continue to apply the general apportionment method to all their purchases of \$10,000 or less for at least 24 months. Registered persons who have agreed an alternative apportionment method with Inland Revenue should continue to apply the alternative method.
- No subsequent adjustments are made for goods or services acquired for \$10,000 or less.
- The number of adjustment periods that GST-registered persons need to monitor their percentage actual use of assets and make annual adjustments is reduced to ten years for land and two years for goods and services acquired for between \$10,000 and \$20,000 (GST exclusive).
- Sections 6(3)(e) and 91 allow GST-registered persons to elect to treat certain assets that have mainly private or exempt use, such as dwellings, as if they only had private or exempt use. The goods cannot have been acquired or used for the principal purpose of making taxable supplies and the person cannot have claimed GST deductions for the

cost¹ or capital improvements to the goods. When the goods are subsequently sold or disposed of, the registered person can elect for the sale of those goods to not be considered part of their taxable activity.

- In contrast, the disposal of an asset for which a registered person has previously claimed taxable use is deemed to be a taxable supply under sections 5(16) and (16C). In addition, where the Commissioner of Inland Revenue (Commissioner) considers a registered person has increased their non-taxable use of goods or services and then applied the wash-up rule in section 21FB in contemplation of the sale of the goods or services or ceasing their taxable activity, the disposal of the relevant asset is deemed to be a taxable supply.
- The wash-up rule in section 21FB can now apply when there has been any permanent change in use and at the end of the adjustment period in which the change of use occurred.
- Amendments to sections 20(3E), (3EB), 21(4) and (4B) allow Inland Revenue to approve a wider range of apportionment methods that are more practical for GST-registered businesses to apply. Inland Revenue can also publish certain alternative apportionment methods considered acceptable to use by certain GST-registered persons and the circumstances in which they can be used.
- The special mixed-use asset rules in sections 20(3JB) and 20G of the GST Act, which apply to certain holiday houses, boats and aircraft with private, taxable and at least 62 days vacant use during the owner's tax year, will be repealed from 1 April 2024. GST input tax deductions and adjustments will instead be calculated using the general GST apportionment rules that apply to other assets.
- Section 61B of the Tax Administration Act 1994 enables Inland Revenue to prescribe an information disclosure for certain GST-registered persons who acquire land, ships or aircraft they intend to use to make taxable supplies.

Effective date

Most of the changes have effect for goods and services supplied, or adjustment periods beginning, on or after 1 April 2023. The exceptions to this are noted below:

¹ If the goods were acquired as a zero-rated supply, the registered person must have returned output tax for the amount of GST they would have been charged if the supply had been standard-rated (15%).

- The amendments to allow GST-registered businesses to elect to treat the supply of certain goods, with mainly private or exempt use, as a non-taxable supply generally have effect for supplies made on or after 1 April 2011. This is retrospective so it aligns with previous GST positions taken and ensures affected businesses do not incur additional GST and compliance costs.
- Remedial amendments to the definition of “actual deduction” in the wash-up calculation in section 21FB of the GST Act and the definition of “percentage actual use” in section 21G have effect on 30 June 2014, which is the date that section 21FB was first introduced.
- The amendments to the asset value thresholds determining the number of years that post-acquisition adjustments are required take effect on 1 April 2023.
- The amendments to sections 20(3E), (3EB), 21(4) and (4B) of the GST Act to allow Inland Revenue to approve a wider range of agreed apportionment methods and publish approved apportionment methods take effect on 1 April 2023.
- The repeal of the mixed-use asset rules in sections 20(3JB) and 20G of the GST Act have effect for a registered person’s first adjustment period beginning on or after 1 April 2024.

Detailed analysis

Principal purpose method for goods and services acquired for \$10,000 or less

Sections 20(3CB) to (3CH) of the GST Act provide a principal purpose method that allows a registered person to claim a full input tax deduction for a supply of goods and services acquired for \$10,000 or less (excluding GST) for the principal purpose of making taxable supplies.

Principal purpose is intended to have the same meaning in section 20(3CC) as the reference to principal purpose used in the pre-2011 GST Act definition of “input tax”. The principal purpose is the main, primary, or fundamental purpose. This does not necessarily equate with more than 50 percent taxable use.

Example 1: Goods acquired for \$10,000 or less with a principal purpose of making taxable supplies

Phil is a GST-registered contractor who acquires a laptop for \$3,000 (plus \$450 GST) for the principal purpose of making taxable supplies, although he may also use it occasionally for private use.

Because the laptop was acquired for \$10,000 or less (GST exclusive) and for a principal purpose of making taxable supplies, Phil can claim a full input tax deduction for the \$450 GST he paid on acquisition in his next GST return.

If a supply of goods or services is acquired for \$10,000 or less (excluding GST) but **not** for a principal purpose of making taxable supplies, a registered person is not typically able to claim an input tax deduction for the acquisition of the good or service.

Example 2: Goods acquired for \$10,000 or less with mostly private use

Amy acquires a car for \$9,000 (plus \$1,350 GST) for the principal purpose of private use, but she may also use it occasionally in her business to make taxable supplies (estimated 20 percent taxable use by kilometres travelled).

Because the car was acquired for \$10,000 or less (GST exclusive) and not for a principal purpose of making taxable supplies, Amy is unable to claim an input tax deduction on acquisition or make any subsequent adjustment for the 20 percent taxable use.

It is expected that most registered persons will use the principal purpose method. If they elect to use it, they will need to apply it to all goods and services they acquire for \$10,000 or less.

The general apportionment rules continue to apply for higher value purchases when the good or service is used by the registered person to make both taxable and non-taxable supplies, such as exempt supplies or for private use.

When the acquired goods or services can be identified as being exclusively used for making taxable supplies, making exempt supplies or private use, the registered person should directly attribute and either claim a full input tax deduction (if only taxable use) or no deduction (if only non-taxable use).

When apportionment is required, the general apportionment method requires the registered person to apportion input tax deductions and make adjustments based on the percentage (e.g. time, space or value) of the good or service that is used to make taxable supplies.

Choosing not to use the principal purpose method

If a registered person would prefer not to use the principal purpose method for purchases of \$10,000 or less, they can instead choose to continue to apply the general apportionment method to all their inputs. This may be because it is simpler for them to use the general apportionment rules for all their purchases, rather than two different methods.

If they choose not to use the principal purpose method, they must do this for a minimum period of 24 months. The 24-month period applies from the first date that the registered person files a tax position in a GST return where they have elected not to use the principal purpose method. They then cannot apply the principal purpose method for other input tax deductions claimed in their GST returns for the next 24 months. Once those 24 months have passed, they can choose to start using the principal purpose method for their subsequent purchases of \$10,000 or less, or they can again elect out of using it for the next 24-month period.

Example 3: Electing not to use the principal purpose method for 24 months

Property Co purchases certain inputs, such as vehicles and leasing an office space, that it uses to make both taxable supplies of commercial leases and exempt supplies of residential tenancies. Property Co has established an apportionment method for tracking its percentage of taxable use of these inputs and would prefer not to change from this method to a principal purpose method for goods and services that are newly acquired for \$10,000 or less. In its GST return filed on 29 May 2023, Property Co takes input tax deductions for all its expenses (including goods and services acquired for \$10,000 or less in the taxable period since 1 April 2023) based on the general apportionment rules rather than using the principal purpose method. Property Co cannot apply the principal purpose method until at least 29 May 2025 when 24 months have elapsed since it first elected not to apply the principal purpose method.

In early 2025, Property Co has sold most of its properties that it used to make exempt supplies and decides it would now be simpler to begin using the principal purpose method for newly acquired goods and services purchased for \$10,000 or less and chooses to do this in its GST returns that are filed after 29 May 2025.

Some registered persons have agreed to use an alternative apportionment method with Inland Revenue. In these cases, the registered person should continue to use the agreed alternative apportionment method (to the inputs that this agreement applies to) rather than apply the principal purpose method. This is provided for by section 20(3CB) not applying to a person who has agreed an apportionment method with the Commissioner under section 20(3E), 20(3EB), 21(4), or 21(4B).

Registered persons can choose to use an alternative apportionment method that has been agreed between Inland Revenue and an industry association of which the person is a member. They can also choose to use an alternative apportionment method that has been published by the Inland Revenue and made available for persons in their circumstances to use. In such cases, the agreed method would apply instead of the principal purpose method. This is provided for by sections 20(3EB) and 21(4B).

Required number of adjustment periods

Adjustments are no longer made for goods or services valued at \$10,000 (excluding GST) or less. This means that once a registered person has claimed an input tax deduction at the time these goods or services were acquired (or when they first use the goods or services to make taxable supplies), they cannot make subsequent adjustments based on the actual use of those goods or services.

Adjustments are still required at the end of a registered person's adjustment period (tax year) for goods or services valued at more than \$10,000. The required minimum number of adjustment periods are displayed in the following table. They depend on whether the goods are land and on the value of other types of goods or service (other than land).

Table 1: Required number of adjustment periods

Value of good or service, excluding GST	Required number of adjustment periods (Balance dates since acquisition or first taxable use)
\$10,000 or less	No adjustment to the input tax deduction taken when the goods or services were acquired.
\$10,001 to \$20,000	Two
\$20,001 to \$500,000	Five
\$500,000 or more	Ten
Land (regardless of the value of the land)	Ten

Alternatively, a registered person can use the number of adjustment periods equal to the estimated useful life of the asset as set by the Commissioner in the Tax Depreciation Rates Determinations.

For goods or services acquired for more than \$10,000, the above requirements are a minimum limit, which means the registered person can elect to make annual adjustments for a higher number of adjustment periods, if they would prefer to do so.

If the registered person sells the asset in the course or furtherance of their taxable activity or has a deemed disposal because they cease their taxable activity, they may still need to make a final adjustment under section 21F, which provides an additional input tax deduction to account for their non-taxable use of the asset.

Example 4: Required number of adjustment periods

Belinda bought a car for \$18,400 (including \$2,400 GST) in February 2021.

Belinda was initially working as employee of a surveying business, but in August 2021, she decides to start her own surveying business and registers for GST.

As she will now be using the car to make taxable supplies, she makes annual adjustments at the end of each adjustment period (her tax year) to claim a percentage of the GST she paid for the car based on the percentage she has used it to make taxable supplies. She calculates this percentage by measuring the kilometres travelled for her GST-registered business as a percentage of the total kilometres travelled by the car since she purchased it in February 2021.

Belinda has made GST adjustments for two adjustment periods (ending on 31 March 2022 and 31 March 2023) for the car, which was valued for more than \$10,000 and less than \$20,000 (GST exclusive) when she bought it. Her taxable use of the car at the end of 31 March 2023 was 77 percent, which means she has claimed input tax deductions totalling 77 percent of the \$2,400 GST she paid when she bought the car.

From 1 April 2023, Belinda is not required to make further adjustments for the car at the end of her tax year as she has already made adjustments for two adjustment periods. Although she could choose to continue to make adjustments at the end of each tax year, she decides not to do so.

Belinda sells the car in May 2024 for \$9,200 (including \$1,200 GST). She makes a final adjustment under section 21F to claim a further input tax deduction of \$276 ($0.15 \times$

9200 x (1-0.77)). Belinda returns \$1,200 output tax and claims a \$276 input tax deduction in her next GST return following the sale of the car.

Election to treat supply of certain goods as non-taxable supply

Section (6)(3)(e) has been added to the list of activities that are not a taxable activity in the GST Act. This provision allows registered persons to elect to treat the sale of goods that were not acquired or used for the principal purpose of making taxable supplies as not part of their taxable activity. This means a sale of qualifying goods is not in the course or furtherance of the registered person's taxable activity so would not be a taxable supply (and therefore not subject to GST).

This aligns the GST rules with current practices for GST-registered persons who may own goods, such as private dwellings, that are principally for private or exempt use, but who may also use the goods for a small percentage of the time or use a small percentage of the goods to make taxable supplies. These GST-registered persons may not have considered these goods to be part of their taxable activity and therefore not included GST positions for acquiring, using, or disposing of them in their GST returns.

The rule is limited to goods (and not services) as it is intended to be used for tangible assets, such as land, dwellings or vehicles, which are likely to have minimal use in making taxable supplies, rather than intangibles, such as brands or intellectual property, which are likely to have a mainly taxable use when acquired by registered persons.

The rule deems the sale or disposal of the goods (including a deemed disposal because the person ceases to carry out a taxable activity) not to be a taxable supply. Where land or dwellings are provided by way of a lease, the GST treatment of the lease is determined under other GST rules, such as whether the lease is consideration for an exempt supply of accommodation in a dwelling or for a taxable supply of services.

To qualify as a supply that is not in the course or furtherance of the person's taxable activity, the goods must satisfy the following requirements outlined in section 6(3)(e):

- No previous input tax deductions were claimed by the registered person for the goods under section 20(3) before the goods were sold.
- The goods were not acquired for the principal purpose of making taxable supplies.
- The goods were not used for the principal purpose of making taxable supplies.

- The goods were not acquired as zero-rated supplies under section 11(1)(m) or (mb), or if they were acquired as a zero-rated supply, the recipient has made an output tax adjustment for the nominal GST component under section 20(3J)(a)(iv).

These requirements are explained below.

No input tax deductions under section 20(3)

The first requirement is that the registered person cannot have claimed a deduction under section 20(3) for the supply of goods before the goods are sold. If they have claimed a deduction for the goods under section 20(3), the sale of the goods by the registered person will generally be a taxable supply. The exception is if the goods were acquired before 1 April 2023 and the registered person applies the transitional rule in section 91 before 1 April 2025 (the transitional rule is further explained in a later section).

The relevant deductions that the registered person may have claimed under section 20(3) could include:

- an input tax deduction under section 20(3)(a) or (b) at the time the goods were acquired
- a subsequent deduction under section 20(3)(e) after applying the adjustment rules to the goods at the end of the person's adjustment period, or
- deductions under section 20(3) for other goods and services that were acquired and became an integral part of the goods that are sold. Integral part means the goods would be considered incomplete or unable to function without the item.

When determining if inputs that the registered person claimed an input tax deduction for became an integral part of the goods being sold, it may be useful to consider if the input represents capital expenditure for income tax purposes and whether it is a separate capital item for income tax depreciation. Further guidance on these concepts is available in *Interpretation Statement: IS 12/03 Income tax – deductibility of repairs and maintenance expenditure – general principles* and *Interpretation Statement IS 10/01 Residential Rental Properties—Depreciation of Items of Depreciable Property*.

The registered person will still be able to satisfy the requirement if they claim input tax deductions for inputs that did not become an integral part of the goods that are sold, such as overheads, repairs and maintenance, or operating costs. They would not satisfy the requirement if they claimed deductions for inputs that made a substantial capital improvement to the goods.

Example 5: Dwelling with minor use in registered person's taxable activity

Rebecca is a registered person who acquired a dwelling that was not a zero-rated supply when it was acquired. She did not claim deductions under section 20(3) for the cost of acquiring the dwelling or any subsequent capital improvements to the dwelling. Although part of the dwelling is used to run Rebecca's taxable activity of farming, the dwelling's principal purpose is a private residence. Rebecca claimed input tax deductions for certain overheads and operating costs, such as insurance, utilities, and local authority rates, based on the percentage that these services were used to make taxable supplies.

When Rebecca sells the dwelling, she can elect to treat the sale as a supply that is not in the course or furtherance of her taxable activity (not subject to GST on sale).

Example 6: Dwelling where deductions are claimed for taxable use

Vincent is a registered person who acquired a dwelling for \$920,000 from an unregistered person. Vincent intends to use 20 percent of the dwelling (a dedicated office) to make taxable supplies for his GST-registered consulting business. He therefore claims an input tax deduction of \$24,000, which is 20 percent of the GST fraction of the purchase price. He later spends \$23,000 (including GST) on substantial renovations (for example, building a new internal wall, replacing the electrical wiring, and upgrading to double-glazed windows) to improve the office, which he uses exclusively to make taxable supplies for his consulting business. Vincent claims a deduction for the \$3,000 of input tax paid for the renovations.

The dwelling would not meet the requirements of section 6(3)(e) because relevant deductions were taken for the goods under section 20(3). A deduction was claimed on acquisition, and deductions were also claimed for substantial improvements that became an integral part of the dwelling that is eventually sold.

Because the dwelling is partly used to make taxable supplies, it will be a taxable supply when sold. Vincent can claim an additional deduction under section 21F for the non-taxable percentage use of the consideration he receives when he sells the dwelling. In this case, the office used to make taxable supplies comprised 20 percent of the use of the dwelling, so the non-taxable percentage use is 80 percent. If Vincent sold the dwelling for \$1.15m, he would return the output tax of \$150,000 but could claim an

adjustment under section 21F for an additional deduction of \$120,000. The net GST he would return on the sale would therefore be \$30,000.

Example 7: Business use of a home garage

Charlie has a GST-registered business hiring bicycles. Because she has run out of storage space in her retail shop, she begins to use her home garage to store some of her hire bikes. She does not claim input tax deductions for part of the acquisition cost of her house, even though it is now partly used (the garage) to make taxable supplies.

Charlie claims input tax deductions for purchasing bike hooks and shelving that she attaches to her garage and uses to store the hire bikes and related equipment in her garage. These items do not form an integral part of her dwelling.

Because Charlie has not claimed input tax deductions for any costs that became an integral part of her dwelling, and the dwelling was acquired and used for the principal purpose of a private residence, she can choose to treat the sale of the dwelling as not being made in the course or furtherance of her taxable activity (and therefore not subject to GST on the sale).

Not acquired for principal purpose of making taxable supplies

The goods cannot have been acquired for the principal purpose of making taxable supplies.

Principal purpose is intended to have the same meaning as when “principal purpose” was previously used in the pre-2011 GST Act definition of “input tax”. Previous public guidance on the meaning of “principal purpose” has defined this as being the main, primary or fundamental purpose and that it does not necessarily equate with a more than 50 percent test.

Not used for principal purpose of making taxable supplies

During the time the registered person owned the goods, they cannot have been used by the person for the principal purpose of making taxable supplies. In other words, the primary use of the goods, from the time the person acquired them until their disposal, must be a non-taxable use, that is, a private or exempt use.

In the case of dwellings, the private use will often be as an owner-occupied home. Some holiday houses may also have a principally private purpose if they are mainly used for their

owner's private recreation. Other types of holiday houses may instead be primarily used to provide taxable supplies of short-stay accommodation to paying guests. A dwelling used for worker accommodation could have a principal purpose of providing an exempt supply of accommodation in a dwelling (if the dwelling is a principal place of residence for occupants who have quiet enjoyment of the dwelling).

The goods will not satisfy the test in section 6(3)(e) if their principal purpose involves the registered person selling those types of goods as their taxable activity. For example, if a property developer builds or develops a house for sale, the sale of the house would remain a taxable supply. Trading stock that is sold by a business would also remain a taxable supply.

Not acquired as a zero-rated supply, or the recipient has made an output tax adjustment for the nominal GST component

Certain goods may have been acquired by a registered person as a zero-rated going concern under section 11(1)(m) or as a zero-rated supply of land under section 11(1)(mb). These goods will only satisfy section 6(3)(e) if the registered person has made an output tax adjustment equal to the nominal GST component and this adjustment has been made after 1 April 2023 and before the goods being sold or disposed of.

For section 11(1)(m) to apply, the registered person who acquires the goods must acquire a taxable activity, or part of a taxable activity, that is a going concern at the time of supply and capable of continuing as a going concern. For section 11(1)(mb) to apply, the registered person must acquire land with the intention of using it to make taxable supplies.

In most cases, when a GST-registered purchaser acquires land or business assets that qualify for zero-rating under section 11(1)(m) or (mb), they will be acquiring these goods for the principal purpose of making taxable supplies.

However, in other cases, the purchaser's taxable use of the goods, while sufficient for the supply of the goods to qualify as a zero-rated supply under section 11(1)(m) or (mb), may be minor and secondary to their non-taxable (exempt or private) use of the goods.

To accommodate these cases, the registered person can return an amount of output tax under section 20(3J)(a)(iv) equal to the full nominal GST amount as calculated by section 20(3J)(a)(i).

If the registered person makes this output tax adjustment, the exclusion under section 6(3)(e) for goods acquired as zero-rated goods no longer applies. Although the person acquired the goods as a zero-rated supply, making the output tax adjustment puts them in the same position as a person who acquired standard-rated or secondhand goods and did not claim an input tax deduction on acquisition.

Example 8: Acquiring a holiday home as a zero-rated supply of land

Gavin is a registered person who acquires a holiday home from another registered person. Gavin's principal purpose for acquiring the holiday home is to use it for his own private recreation (and not as his principal place of residence).

However, because Gavin also intends to use the holiday home for a secondary and more minor purpose of making taxable supplies of guest accommodation, he acquires the holiday home as a zero-rated supply under section 11(1)(mb) for \$1m (rather than a standard-rated supply of \$1m plus \$150,000 of GST, which would have been the price had section 11(1)(mb) not applied to the supply).

If Gavin intends to use section 6(3)(e) to make his future disposal of the holiday home a non-taxable supply, he can choose to return output tax of \$150,000, being the full amount of the nominal GST component, in his next GST return after acquiring the holiday home. If he does this, section 6(3)(e) could then be satisfied to deem the future disposal of the holiday home as not being made in the course or furtherance of Gavin's taxable activity. Gavin would therefore not be required to charge GST on that disposal.

Alternatively, Gavin can choose to return the smaller amount of \$105,000 output tax under section 20(3J) based on his 70 percent expected non-taxable use of the holiday home at the time he acquires the holiday home. However, if he does this, a future disposal of the holiday home would not satisfy section 6(3)(e) as he would not have returned the full amount of the nominal GST component on acquisition of the zero-rated supply of land.

Electing to use section 6(3)(e)

The registered person elects to use section 6(3)(e) by taking a tax position of not charging GST at the time they sell (or otherwise dispose of) the qualifying goods and not accounting for a taxable supply of the goods in their next GST return.

The registered person will not generally have to disclose to, or notify, the Commissioner that they have made the election to apply section 6(3)(e). Instead, they would simply not account for GST on the asset (by not claiming deductions for the secondary taxable use and not returning output tax on disposal).

Note, however, there is a requirement for a registered person to notify the Commissioner if they intend to apply the transitional rule in section 91 for certain goods acquired before

1 April 2023. This transitional rule allows the registered person to make an output tax adjustment before 1 April 2025 for taxable use that was previously claimed and is explained below.

Effective date of section 6(3)(e)

Section 6(3)(e) generally has effect for taxable supplies made on or after 1 April 2011. This retrospective application date means that if a registered person has previously taken a tax position consistent with the requirements of section 6(3)(e), that tax position is now correct. This could include a person having treated their dwelling as not being part of their taxable activity even though it may have been partly used to make taxable supplies.

However, in cases where an assessment has already been made for a taxable supply before 30 August 2022, that is, the registered person has returned output tax on goods they sold or disposed of before that date, the supply of those goods remains a taxable supply.

For goods that a registered person sells or disposes of between 30 August 2022 and 1 April 2023 that would qualify as non-taxable supplies under section 6(3)(e), the registered person can amend their GST position to apply section 6(3)(e). In these cases, the person may have initially taken a GST position that treated the sale of the goods as a taxable supply and claimed a deduction for non-taxable use of the asset under section 21F at the time they sold the goods. If they subsequently wanted to apply section 6(3)(e), the fact that they initially may have claimed a deduction under section 21F for their percentage of non-taxable use at the time they sold the goods would not disqualify them from applying section 6(3)(e). This is because the condition in section 6(3)(e) only refers to deductions taken before selling the relevant goods. Their amended GST position would have to reverse out any deduction taken under section 21F as that section would no longer apply once the sale of the goods was changed to be a non-taxable supply under section 6(3)(e).

The amendments to sections 6(3)(e)(iv) and 20(3J), allowing a registered person to make an output tax adjustment for the full nominal GST component of goods acquired as zero-rated land or a zero-rated going concern so that the acquisition is no longer treated as a zero-rated supply, have effect for taxable periods beginning on or after 1 April 2023.

Transitional rule for certain goods acquired before 1 April 2023

Section 91 provides a transitional rule that allows a registered person to return an amount of output tax for certain goods acquired before 1 April 2023 that cannot qualify for the main rule in section 6(3)(e).

The transitional rule applies for the 24-month period between 1 April 2023 and 1 April 2025.

Section 91 applies when a registered person has acquired goods before 1 April 2023 and previously claimed a deduction under section 20(3) for the goods or acquired them as zero-rated supplies.

Provided the relevant goods were not acquired or used for the principal purpose of making taxable supplies, the registered person can elect to notify the Commissioner before 1 April 2025 and return a certain amount of output tax in their next GST return.

The amount of output tax the registered person returns is equal to either the previous taxable use that was claimed for the goods (where deductions have been claimed under section 20(3)) or, in those cases where the goods were acquired as a zero-rated supply, the current taxable use percentage of the goods multiplied by the nominal GST component.

If a registered person applies section 91 and returns the relevant output tax amount, a future disposal of the relevant goods is not a taxable supply. This is unless the registered person later chooses to claim a deduction under section 20(3) for any taxable use of the goods after applying section 91.

Consequential amendments to sections 5(15) and 21(2)

A consequential amendment to section 21(2) ensures that a registered person does not need to monitor their actual taxable use and make adjustments at the end of their adjustment period for any goods for which they apply the rules in section 6(3)(e) or 91. This reflects the fact that to apply these new rules the person treats the goods as though they had no taxable use of the goods. No adjustments are necessary when a person has no taxable use of their goods.

The amendment to section 21(2) has effect for supplies made on or after 1 April 2011 other than supplies for which an assessment has been made before 30 August 2022.

Consequential amendments are also made to section 5(15). Section 5(15) applies if a person makes a supply of real property (land) that includes a principal place of residence (such as the person's home). It provides that the principal place of residence is treated as a separate (and usually non-taxable) supply to the supply of other parts of the real property, such as farmland or business premises, which may be a taxable supply. The amendments expand the scope of section 5(15) so it also applies to a supply of real property that includes goods the registered person has elected to treat as a non-taxable supply under section 6(3)(e) or 91. The non-taxable supply of these goods is treated as a separate supply to the supply of any other real property.

The relevant goods will usually be a dwelling. For example, the person's principal place of residence, a second house that is not any person's main home, a holiday house or a dwelling used to provide temporary worker accommodation.

Section 5(15)(c), relating to section 6(3)(e), has the same retrospective effective date as section 6(3)(e) itself. It has effect for supplies made on or after 1 April 2011 other than supplies for which an assessment has been made before 30 August 2022.

Section 5(15)(d), relating to section 91, has the same effective date as section 91, that is, 1 April 2023.

Example 9: Dwelling deemed to be separate supply to farmland

Francis is a GST-registered farmer who owns a farm that includes a farmhouse.

After some years, Francis buys a second farm and moves his principal place of residence to the newer and larger farmhouse on this new farm. He continues to operate both farms for several years.

Francis eventually decides to sell his old, original farm. Throughout the time Francis owned the original farmhouse, its principal purpose was non-taxable private use, even though it was also partly used in his farming business and to provide taxable supplies of accommodation to paying guests or workers.

Francis uses a property valuer to determine the value of the farmhouse and curtilage and then applies section 6(3)(e) so that the sale of the farmhouse and curtilage is a non-taxable supply that is a separate supply to the rest of the farmland. The sale of the rest of the farmland is a zero-rated supply as it is sold to another registered person who will use the farmland to make taxable supplies.

Deeming the disposal of an asset to be a taxable supply

Under the GST Act, supplies of goods or services by a registered person in the course or furtherance of their taxable activity are taxable supplies. This includes selling or otherwise disposing of assets used by the registered person in their taxable activity.

A person's taxable activity includes anything done in connection with the beginning or ending of that activity, including a premature ending. However, even with this broad definition, it may be unclear whether the disposal of an asset, such as land, is a taxable supply when the registered person is no longer using the asset to make taxable supplies, or

when they previously claimed they had a taxable use of the asset but did not in fact use the asset to make any taxable supplies.

New sections 5(16) and 5(16C) clarify that the disposal of such goods and services are taxable supplies.

An asset for which a registered person has previously claimed a taxable use

Section 5(16) applies to goods and services that a person has previously claimed a taxable use for, even though the person is not using the goods or services in the course or furtherance of their taxable activity at the time the goods or services are disposed of.

Section 5(16C) deems the disposal of these goods and services to be made in the course or furtherance of a taxable activity carried on by the person (a taxable supply). The disposal could be the sale of the relevant goods or services to another person, or it could be a deemed disposal under section 5(16C)(b) because the person ceases to be a registered person.

In cases where a person ceases to be a registered person, section 10(7A) deems the relevant assets to be disposed of at market value immediately before the time the person ceases to be a registered person. This is the same valuation rule that applies when a registered person ceases to carry out a taxable activity and has a deemed disposal of all the goods and services that previously formed part of the assets of their taxable activity under section 5(3).

The definition of “registered person” includes a person who is liable to register for GST. This means that the deeming rule in section 5(16C) also applies to a person who has previously deregistered from GST but becomes liable to register for GST because of the application of the section and the fact they are making taxable supplies of more than \$60,000 in a 12-month period (including the consideration received for the section 5(16C) taxable supply).

There are three ways a person may have previously claimed a taxable use for the relevant goods or services:

- by claiming an input tax deduction for taxable use under section 20(3)
- by acquiring the goods or services from another registered person as a zero-rated supply of land under section 11(1)(mb), or
- by acquiring the goods or services as a zero-rated supply of a taxable activity (that is, a business) as a going concern under section 11(1)(m).

The deeming rule will not apply in situations where the registered person has previously returned an amount of output tax on the goods or services equal to or greater than either

the deductions taken for the relevant goods or services under section 20(3) or the nominal GST component under section 20(3J) in the case of a supply that was acquired by them as a zero-rated supply of land or a going concern.

The person could have previously returned this amount of output tax because of one or more of the following circumstances:

- The person deregistered for GST and returned output tax on the market value of the asset (which was higher than the acquisition cost) under section 5(3).
- Section 20(3J) applied, and the registered person's percentage intended use for making taxable supplies was nil at the time they acquired the supply, which was initially treated as a zero-rated supply of land or a going concern. For example, at the time of supply the person initially planned to use the land to make taxable supplies, but once they acquired the land their plans changed, and they would only have private or exempt use of the land.
- The wash-up rule in section 21FB was applied by a registered person who had total non-taxable use, and therefore they repaid an amount of output tax equal to their earlier deductions or nominal GST component for their earlier taxable use.
- The registered person applied the transitional rule in section 91 for qualifying goods acquired before 1 April 2023 and notified the Commissioner and returned output tax equal to the previous deductions (or nominal GST component) claimed for their taxable use of the goods.

Example 10: Output tax adjustment equal to previous deductions taken

Scott is a registered person who acquired a dwelling for \$1.15m in 2022 from an unregistered person. Scott intends to use 20 percent of the dwelling (a dedicated office) to make taxable supplies for his GST-registered consulting business. He claims an input tax deduction of \$30,000, which is 20 percent of the tax fraction of the purchase price.

During 2023, Scott finds he is no longer using his home office as he prefers to work from his client's offices and a co-working space he has started to lease. He makes an output tax adjustment of \$30,000 at the end of his next adjustment period to reflect the fact he no longer uses his home office to make taxable supplies.

Scott uses the wash-up rule in section 21FB to make this adjustment as he now has zero percent taxable use of his dwelling and expects this to remain the case for the foreseeable future.

Alternatively, if Scott had still expected to continue to have some taxable use of his dwelling (such as using his home office to make taxable supplies on certain days of the week), and this was not the principal purpose of the dwelling, he could choose to apply the transitional rule in section 91 for goods acquired before 1 April 2023. To apply the transitional rule, he would need to make the \$30,000 output tax adjustment before 1 April 2025 and notify the Commissioner that this output tax is because he intends to apply section 91.

In 2026, Scott sells the dwelling and as he has already made output tax adjustments to return the full amount of input tax deduction he originally claimed (\$30,000), section 5(16) will not apply. Instead, Scott can treat the sale as not being made in the course or furtherance of his taxable activity, either because it is no longer used in his taxable activity, or because he has applied the transitional rule in section 91.

Section 5(19) of the GST Act is repealed as it has been superseded by the new section 5(16). Section 5(19) provided an election that a registered person could use before 1 August 1996 to pay output tax on a dwelling for which the person had previously claimed deductions under section 20(3) to ensure a future disposal of the dwelling would not be subject to the deeming rule in section 5(16). The new section 5(16) means that a disposal of such a dwelling will not be deemed to be a taxable supply, provided the registered person who applied the section 5(19) election has not claimed a subsequent deduction under section 20(3) for a taxable use of the dwelling since returning the output tax in 1996.

Assets sold after a non-taxable wash-up is performed

Section 21FB of the GST Act applies when a person changes their taxable use of an asset permanently to a new percentage use. If a person's use becomes fully non-taxable, the asset may no longer be used in the course or furtherance of the person's taxable activity and therefore its subsequent sale or disposal is not a taxable supply.

This provides a potential opportunity for tax avoidance. For example, registered persons could try to minimise their output tax liability on assets, such as land, that are used to make taxable supplies but which they plan to sell soon. The output tax that needs to be returned under section 21FB on a change to non-taxable use is based on the full input tax deduction that could have been claimed for the GST charged on the asset *at the time it was originally acquired*. This means that for appreciating assets, such as land, the output tax liability from claiming a change of use and applying section 21FB may be significantly less than the output tax that would be charged *at the time of disposal* if the asset was sold as a taxable supply.

To address this risk, section 5(16B) provides that the deeming rule in section 5(16C) also applies in circumstances where the Commissioner considers the registered person has increased their non-taxable use of the goods or services and then applied section 21FB in contemplation of the sale of the goods or services or of ceasing their taxable activity.

If section 5(16B) applies, the disposal of the relevant asset is deemed by section 5(16C) to be made in the course or furtherance of a taxable activity carried on by the person (that is, it would be a taxable supply). The disposal could be the sale of the relevant goods or services or a deemed disposal under another deeming rule (such as section 5(3), which deems the disposal at market value of any assets held by a person who ceases to be a registered person).

The amendments to sections 5(16), (16B) and (16C) have effect for goods and services supplied on or after 1 April 2023.

Expanding the ability to use the wash-up rule for permanent change in use

The wash-up calculation in section 21FB has been amended with effect for adjustment periods beginning on or after 1 April 2023. It can now be applied:

- at the end of a registered person's current adjustment period, and
- for any new permanent percentage use.

Under the previous section 21FB, which applied before 1 April 2023, the registered person had to have 100 percent taxable use or 100 percent non-taxable use of an asset for the remainder of their current adjustment period and all the following adjustment period (tax year).

The wash-up rule in section 21FB can now be applied at the end of the adjustment period in which the permanent change in use occurred. This may be particularly relevant for persons who have acquired assets before registering for GST that they then begin using to make taxable supplies.

Example 11: Adjustment for asset acquired before registering for GST

In July 2023, Sam buys a small van for \$23,000 (including GST of \$3,000) to start a part-time business moving furniture a few days a week.

His business grows and he registers for GST in November 2023.

Since registering for GST, he uses the van exclusively for making taxable supplies in his furniture-moving business and expects this 100 percent taxable use to continue for the foreseeable future. Sam applies the wash-up calculation in section 21FB to claim an input tax adjustment for \$3,000 at the end of his current adjustment period, which ends on 31 March 2024. He claims this adjustment in his GST return for the period ending 31 March 2024.

The wash-up rule has also been amended to allow it to be used for any permanent change to a particular fixed percentage use. For example, if a registered person's use of a particular good or service permanently changes to 50 percent taxable use and they expect this percentage to remain stable for the foreseeable future, they can now perform the wash-up calculation.

Example 12: Permanent change in use

Tōtara is a registered person that acquires an apartment building for \$23m from an unregistered person. Tōtara will use 80 percent of the building to make exempt supplies of accommodation in a dwelling and lease the remaining 20 percent to Rimu under a commercial lease. Rimu is a registered person who uses these apartments to supply commercial accommodation of hotel units and serviced apartments. Tōtara claims a deduction for 20 percent of the \$3m input tax on acquisition (\$0.6m).

After 24 months, Tōtara negotiates a long-term commercial lease to supply 50 percent of the building to Rimu for making taxable supplies of commercial accommodation. This results in a permanent change to 50 percent of the apartment building being supplied by Tōtara for making taxable supplies for the foreseeable future.

The new permanent percentage use is 50 percent and the actual use in the previous adjustment period was 20 percent, a difference of 30 percent additional taxable use. Under section 21FB, Tōtara can make an adjustment at the end of their adjustment period (on their next annual balance date) to deduct \$0.9m, which is equal to 30 percent of the \$3m input tax on acquisition. They would include this adjustment in their first GST return filed after the end of their adjustment period.

After applying section 21FB, the registered person would not make any further adjustments in future adjustment periods unless their actual use changed from their new percentage taxable use of the goods or services. This outcome is provided for by section 21(2)(ac) of the GST Act.

Remedial amendments to the wash-up rule in section 21FB

Assets that were zero-rated when they were acquired

A remedial amendment has been made to the definition of “actual deduction” in section 21FB to ensure the formula in the previous section 21FB correctly accounts for land acquired as a zero-rated supply. The amendment clarifies that if a registered person changes their use of land to 100 percent non-taxable use, they will have an output tax adjustment equal to the nominal GST component that they previously benefited from by paying a reduced amount of consideration when they acquired a zero-rated supply of land. For example, they acquired the land for \$1m plus zero GST instead of \$1m plus \$150,000 GST, so their nominal GST component is \$150,000.

The remedial amendment takes effect on 30 June 2014, which is the date the wash-up calculation in section 21FB was originally introduced.

Remedial amendment to definition of “percentage actual use”

A remedial amendment has been made to the definition of “percentage actual use” in section 21G to clarify that after the wash-up rule in section 21FB has been applied, the

registered person should only measure their percentage actual use from the date the wash-up calculation was performed, rather than the date they acquired the asset.

The amendment ensures the earlier adjustment taken under section 21FB is properly accounted for when the person makes a final adjustment either on disposal under section 21F or because they had to make a subsequent annual adjustment because their percentage use had changed since they applied the wash-up calculation. The remedial amendment takes effect on 30 June 2014, which is the date the wash-up calculation in section 21FB was originally introduced.

Alternative apportionment methods

The apportionment and adjustment rules allow registered persons to apply to the Commissioner to agree an alternative apportionment method. This is intended to reduce compliance costs, as an alternative apportionment method could produce similar GST outcomes to the default apportionment rules but with lower compliance costs.

Previously, there was a requirement that the alternative apportionment method “have regard to the tenor” of the default apportionment rules and formula. The default apportionment and adjustment rules require a person to apportion deductions based on their intended taxable percentage use or actual use in the current adjustment period, even though their current use may be temporary and incidental to their ultimate use of the goods or services.

This requirement prevented the Commissioner from agreeing to some methods that may simplify the apportionment and adjustments required but use a different approach to the default apportionment and adjustment rules.

To accommodate a wider range of methods, the previous requirements in sections 20(3E), (3EB), 21(4) and (4B) that the alternative method “have regard to the tenor of” the default apportionment rules and formula have been removed. The new sections retain the more general requirement that the alternative method provides “a fair and reasonable method” of apportionment or calculating adjustments.

Sections 20(EB)(b) and 21(4B)(b) allow an industry association to agree a method with the Commissioner on behalf of their members.

Sections 20(EB)(c) and 21(4B)(c) allow the Commissioner to publish certain alternative apportionment methods considered acceptable to use by certain registered persons and the circumstances in which they can be used. Instead of developing and agreeing their own bespoke method with the Commissioner, registered persons could reduce their compliance costs by choosing to apply a published method if it applies to their circumstances.

The amendments to allow the Commissioner to agree to, or publish, alternative apportionment methods take effect on 1 April 2023.

Repealing the mixed-use asset rules in sections 20(3JB) and 20G

The mixed-use asset rules in sections 20(3JB) and 20G add the complexity of another potential formula but have limited application. The rules only apply to certain assets, such as holiday homes, aircraft, and boats, and only when their use is a mixture of private days, taxable days and at least 62 unused days.

In addition, many of the holiday homes that would otherwise become subject to these mixed-use asset rules could become excluded from a registered person's taxable activity due to the operation of sections 6(3)(e) and 91 (discussed above), which allow registered persons to elect for mainly private or exempt assets to be treated as if they only had non-taxable use.

The mixed-use asset rules in sections 20(3JB) and 20G will therefore be repealed from 1 April 2024. In cases where GST apportionment continues to apply to a registered person's mixed-use assets, their GST input tax deductions and adjustments will instead be calculated using the same general GST apportionment rules that apply to other assets.

These general rules will allow an apportionment percentage to be calculated based on days of taxable use. This is a similar method to the current formula in section 20G, but the calculation is less prescriptive, and it is not limited to the set of "mixed-use assets" described in section DG 3 of the Income Tax Act 2007.

The repeal of sections 20(3JB) and 20G has effect from the registered person's first adjustment period beginning on or after 1 April 2024. This means that if, on 31 March 2024, a registered person has begun an adjustment period for a mixed-use asset to which section 20G applies, they will continue to use section 20G until the end of that adjustment period. At their first adjustment period beginning on or after 1 April 2024, they will then begin to use the ordinary adjustment rules in sections 21 and 21A.

Information disclosure for GST-registered persons purchasing land, ships, or aircraft they intend to use to make taxable supplies

Section 61B of the Tax Administration Act 1994 provides the Commissioner with the ability to prescribe a new information disclosure to apply when a GST-registered person acquires land, a ship, or an aircraft with the intention of using it to make taxable supplies.

“Land” is defined in section 2 of the GST Act 1985, “ship” has the meaning set out in section 2 of the Maritime Transport Act 1994, and “aircraft” has the meaning set out in section 2 of the Civil Aviation Act 1990.

The information disclosure will assist Inland Revenue to better monitor and promote compliance by registered persons who have previously claimed large input tax deductions (or acquired zero-rated land) but no longer appear to be proceeding with, or carrying on, a taxable activity (for example, they have been continuously filing GST returns with no or low sales).

Section 61B(1) enables the Commissioner to prescribe and adjust the specific requirements to ensure the rules are practical and effective. It allows the Commissioner to set (and adjust) what information would be reported and the form and deadlines for the disclosure, including the start date for the first disclosure period.

The information required to be disclosed could include the amount of consideration paid for the asset, the initial amount of GST input tax deducted on purchase (or the nominal GST amount that would otherwise have been charged if the asset was purchased from another registered person as a zero-rated supply of land or a going concern), and a statement of how the asset will be used to make taxable supplies.

Section 61B(2) allows the Commissioner to exempt certain types of registered persons from being required to disclose the information if they are considered by the Commissioner to represent a low risk of using the relevant asset for a private or exempt use. For example, the exemption could be designed to define certain categories of registered persons who have a well-established business of making taxable supplies of land development, commercial leasing, or dealing in aircraft or pleasure craft, whether by themselves or through associated persons.

Before implementing an information disclosure requirement, Inland Revenue will work with GST practitioners and software developers to test the proposed design (including the specific information that would be disclosed, the timing and format of the disclosure and which groups or assets should be exempt as they represent a low risk) to ensure it is well-targeted and practical. Because of the further design and testing required and the need to provide sufficient time for affected businesses and accounting software providers to update their systems, it is expected that the earliest possible implementation date to apply the new disclosure rules will be for land, pleasure craft or aircraft acquired on or after 1 April 2024.

Further information

More information about GST apportionment and adjustment is available at [GST adjustments for business, private and exempt use \(ird.govt.nz\)](https://www.ird.govt.nz/gst-adjustments-for-business-private-and-exempt-use)

About this document

Special reports are published shortly after new legislation is enacted or Orders in Council are made to help affected taxpayers and their advisors understand the consequences of the changes. These are published in advance of an article in the *Tax Information Bulletin*.