

## New Zealand Inland Revenue releases GST Policy Issues Paper

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### Executive summary

New Zealand's Inland Revenue (IR) has released its long-awaited [Policy Issues Paper](#) proposing a number of amendments to the *Goods and Services Tax Act 1985*. The issues and proposed solutions covered in the paper are wide ranging and the paper will be of interest across all sectors.

IR is seeking submissions on the proposals by **9 April 2020**; a short window. Subject to feedback received, the Government is most likely to include the amendments to the *Goods and Services Tax (GST) Act* in the next suitable tax bill.

IR's focus on identifying these issues, and proposing solutions, has been to:

- ▶ Remove inconsistencies in the law and uncertainties
- ▶ Address level playing concerns raised by industry
- ▶ Ease the compliance burden on taxpayers

## Detailed discussion

### The proposals

#### GST treatment of manager and investment manager services supplied to managed funds

IR is proposing to amend the definition of financial services to provide a more certain GST position for those in the industry. Certainty would be a positive development given that the GST treatment of such services has been based on an industry agreement for some time (whereby 10% of the services are treated as taxable, and the remaining are considered exempt). However, the options put forward are wide ranging and would have different impacts for different fund managers.

IR has put forward the following options for industry consultation:

- ▶ Treating all supplies as taxable
- ▶ Treating all supplies as exempt
- ▶ Deeming a certain percentage of manager and investment manager services to be taxable
- ▶ Zero-rating the supplies or allowing a reduced input tax credit

It appears from the Issues Paper that zero-rating or a reduced input tax credit (like that applying in Australia) appears to be the least preferred option.

IR is proposing that any change apply prospectively with grandfathering of the treatment of existing contracts. IR is also seeking input on how the services are defined.

Given the significant differences in the proposed options, those in the industry should consider making submission.

#### GST treatment of third-party insurance receipts

Under the current rules, a GST-registered recipient of an insurance pay-out is required to account for GST on the pay-out (when certain conditions are met), whether or not they are a party to the insurance contract. IR is concerned that third parties may not always know they are receiving an insurance pay-out and fail to account for the GST, resulting in a loss of revenue.

Officials have put forward several options with the aim of improving compliance in this area, including:

- ▶ The most fundamental option being a change to require the insurer to account for the GST under the reverse-charge mechanism in relation to all insurance payments to GST-registered recipients (subject to the current exclusions).

- ▶ An alternative option would remove the requirement to account for GST on the receipts, with a balancing removal of the entitlement for the insurer to claim an input tax credit.
- ▶ Another option would introduce a requirement for insurers to notify the recipient that the payment is covered by insurance.
- ▶ The final option is to retain the existing provisions but aim to resolve the problem through improved awareness of the existing requirements.

Based on Officials' comments in the paper, the first two options are preferred by IR.

IR is seeking input in relation to both the extent of the existing problem and on the costs, benefits and practical issues with the options put forward. Officials are particularly interested in understanding the impact on insurers, acknowledging that some of the options would result in additional compliance costs and a requirement for system changes.

#### Modernizing the GST invoicing requirements

With the objective of aligning GST invoice requirements with changes in business practices and the use of technology, IR's proposals include:

- ▶ Simplifications around tax invoice and electronic invoicing requirements
- ▶ Removing the need to obtain IR's approval for issuing buyer-created tax invoices
- ▶ Extending the scope for issuance of shared invoices

These proposals are welcome as changes to these rules are long overdue. However, we believe Officials could have gone further and explored whether existing thresholds are still fit for their intended purpose.

As well as seeking views on the proposals, IR has asked for submissions on further simplifications that could be made. There is an opportunity here to provide Officials with an understanding of current issues or compliance challenges that could be simplified or improved.

#### Excluding cryptocurrency from GST and the financial arrangement rules

IR is proposing that crypto-assets should be excluded from the ambit of GST and the financial arrangement rules to ensure these rules do not impose barriers to investing into, or raising capital from, crypto-assets. The change would provide certainty to the market.

IR proposes that crypto-assets should have a similar tax treatment to other investment products or asset classes which are close substitutes for the crypto-asset. The change will level the playing field between crypto-asset transactions and fiat currency transactions by ensuring that crypto-asset transactions will no longer be at risk of "double-GST."

The two options put forward to remove GST from supplies of crypto-assets are to apply a treatment similar to money (outside the scope of GST) or exempt financial supplies (even when supplied to a nonresident). The preferred option appears to be treating crypto-assets as money to remove complexity and compliance issues. Officials also acknowledge that the exempt financial supply option may create a barrier for the New Zealand market.

IR also proposes that the existing rule enabling input tax recovery on capital raising costs also apply to raising capital through issuing crypto-assets.

IR is taking a pragmatic approach by proposing that the relevant law changes apply retrospectively from 1 January 2009, to precede the launch of the first crypto-currency on 3 January 2009.

IR is seeking submissions on how GST should be removed as well as how crypto-assets are defined.

### Apportionment and adjustment

IR acknowledges that the current input tax apportionment and adjustment rules are complex and do not accurately reflect the actual mix of taxable and non-taxable supplies. There are several proposals in the paper, including a new wash-up formula for the change in use wash-up calculation for non-land assets, and changes to the concurrent use of land apportionment formula and wash-up adjustments for land.

IR is seeking views on the proposals as well as other suggestions for making the rules more straightforward. Developers, including operators of retirement villages, should review the proposals as many of the proposed changes may impact them.

### Zero-rating - domestic freight services, conferences and training

With the objective of aligning the GST treatment more closely with other countries (such as Australia and Singapore) and to make the industry more competitive from a GST perspective, Officials have proposed changes to zero-rate the following:

- ▶ Domestic transportation of an inbound or outbound international consignment, if such services are supplied to a nonresident transport supplier that has been contracted to transport goods to or from New Zealand.
- ▶ Business conference services and staff training supplied to nonresident businesses sending their staff to New Zealand.

IR is seeking views on these proposals, in particular on whether:

- ▶ Freight zero-rating should also apply to supplies made to resident transport suppliers; and if the scope of zero-rating of conference and training services should be extended to services typically bundled with these supplies.

### Changes to compulsory zero-rating of land rules

IR has proposed some technical changes to the rules, including clarification of the requirement for the purchaser to account for output tax when a sale was incorrectly zero-rated and clarification of the time of supply rules.

### Removal of one of the limitations on claiming second-hand input tax credits between associated persons

Currently a second-hand goods input tax credit is not available between associated persons if there was no GST charged on the original acquisition of the goods, which often produces an unfair outcome. The proposed amendment would remove this limitation.

### Other GST remedial proposals

The GST issues paper also covers several other GST remedial measures including:

- ▶ Clarification on how the GST grouping rules should be applied in relation to the other provisions in the *GST Act*, as well as a proposed change to allow representative members to issue tax invoices on behalf of group members.
- ▶ Clarification that members of non-statutory boards are excluded from having a taxable activity.
- ▶ Amendments to enable taxpayers to challenge the Commissioner's decision to reopen a time-barred GST return.
- ▶ Clarification that a taxpayer can claim input credits for goods paid for or invoiced but not physically received by the time the GST return is filed.
- ▶ Providing more flexibility for the Commissioner to approve the end date of a taxable period.

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