

GST Direct:

Bringing you the latest GST
and Customs developments

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30 years of GST in New Zealand

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1 October 2016 marks the 30th anniversary of GST in New Zealand. We reflect on what makes our GST a model system the rest of the world can learn from.



The changes demonstrated how GST could be used to balance wider fiscal policy and to fine tune Government policy.

GST in New Zealand is a broad-based flat rate tax that is heralded for its simplicity and efficiency. It was introduced in 1986 against the following backdrop:

“... the Government will be implementing changes in the taxation system which are among the most far-reaching to be made at any time in the twentieth century in New Zealand. ... GST is the way the Government plans to solve the central problem of New Zealand taxation - high rates of personal income tax which have been a growing problem for the past 15-20 years. ... Wage and salary earners, who earn only 59 per cent of our national income, have been paying 75 percent of the income tax in New Zealand.”

Minister of Finance, Roger Douglas, White Paper on GST, March 1985

As seen above, GST was first introduced as part of broader fiscal changes. At the time, David Lange was Prime Minister and Roger Douglas as Minister of Finance oversaw the introduction. Other wider tax changes that were brought in at the time included a reduction of personal tax rates (including the top personal income tax rate being lowered from 66% to 48% over a two year period) and the removal of sales tax. The changes demonstrated how GST could be used to balance wider fiscal policy and to fine tune Government policy. This was recently evidenced in 2010 – under the so-called “tax switch” – when the GST rate went from 12.5% to 15% providing the ability to reduce personal income tax rates (including a reduction of the top personal tax rate from 38% to 33%) followed by a corporate tax rate reduction from 30% to 28% shortly afterwards.

The strong foundations of the GST system have ensured it remains pure and world leading.

Simplicity:

GST in New Zealand is a simple system. It has always been a broad-based tax with a single rate and relatively few exemptions. This simplicity means that the system is easy to understand and apply. GST applies to almost all supplies of goods and services in New Zealand. Other jurisdictions have introduced exemptions for many supplies and this has caused complications and inefficiencies.

Flexibility:

From a GST-registered person's perspective there is flexibility, e.g. varying return and payment periods depending on the size of the business, GST grouping and linking to provisional tax.

From a Government policy perspective there is an ability to modify GST to adapt to the changing times, e.g. the introduction of the zero-rating of business-to-business (B2B) financial services rules, compulsory zero-rating (CZR) of B2B land transactions, and the introduction of GST on digital and remote services sold by offshore sellers to New Zealanders.

Cornerstone:

GST provides a significant contribution to the Government purse, last year adding \$17 billion and close to 30% of total tax revenue collected. It has become a cornerstone of our revenue system and ensures that we are able to maintain reasonably low income tax rates.

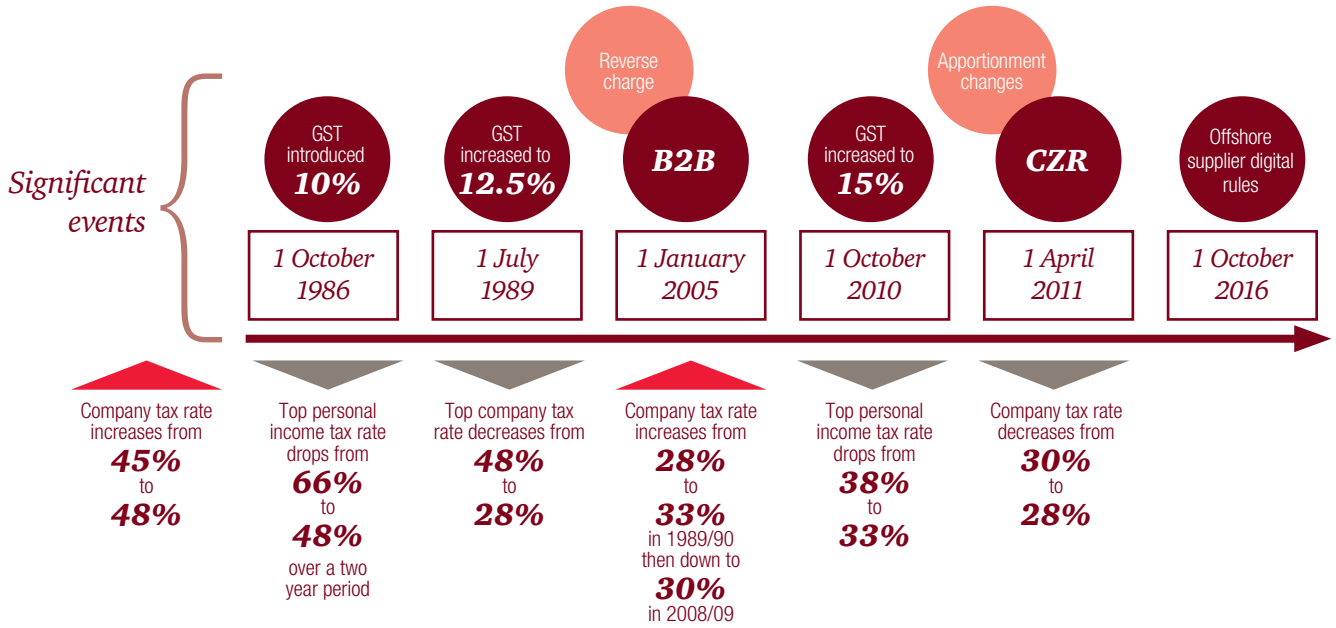
New Zealand GST is agile and has stood the test of time. As the way we are living and working is changing through the use of technology, the GST legislative framework is able to adapt to meet the needs of the modern age without requiring a full rewrite of the GST Act.

On the recent introduction of the GST Bill in India, Prime Minister Modi said: "*Great Step by Team India, Great Step toward Transformation, Great Steps towards Transparency, this is GST.*" This takes us back to the thinking in New Zealand 30 years ago. The introduction of GST was one of the greatest tax reforms in New Zealand. Our GST has become one of the best GST systems in the world - this needs to be acknowledged and celebrated.



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30 years of New Zealand GST



Other jurisdictions' current GST or VAT rates and year of introduction of the regime



GST on digital and remote services

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The new GST on digital products and remote services commences on 1 October 2016. The rules apply to sales by offshore sellers to New Zealand private consumers. Inland Revenue has been responsive, helpful and engaged in the process and this has helped offshore sellers to register promptly and to bed down systems changes for the new rules.

Offshore sellers: If you are an offshore seller, please ensure that you have reviewed your systems and processes so that you are ready to return GST (if payable) on all sales to New Zealand resident consumers.

Inland Revenue has been responsive, helpful and engaged in the process.

New Zealand buyers: New Zealand businesses purchasing digital products and remote services from offshore sellers:

- a. may be asked to confirm their GST status to the offshore seller; and
- b. cannot claim GST if any is charged (except in limited) cases.

If as a New Zealand business you find that you are being charged GST, then you should contact the offshore seller to remedy this.

If you are an offshore seller, or a New Zealand business, and you would like practical or sounding board support in relation to these rules, please contact a member of our team.



Single or multiple supplies? Inland Revenue's draft interpretation statement

The boundary between a single supply and multiple supplies has been an area of confusion for some time. Inland Revenue has sought to clarify this and released a draft interpretation statement for discussion on 16 June 2016 and for which submissions closed on 29 July 2016 (see [Inland Revenue website](#)). The draft statement is insightful, well drafted and provides clarity to this otherwise foggy landscape.

The draft statement's analysis is relevant for interpreting the GST treatment of many commercial transactions. Inland Revenue has set out a three-tiered analysis for determining whether there is a single supply or multiple supplies.

1 Focus on the true nature of the legal arrangement

The first step is to examine the true nature of the contract or legal agreement entered into between the parties to identify what has been supplied. This analysis should not be based on the broad substance of the transaction. The fact that a single price is charged to the recipient does not determine whether one or more than one supply is made.

In some situations, it may be clear from the contract that there is only one supply being made, whereas in other cases it may be clear that there are multiple or separate supplies.

2 Analyse the supply from the recipient's point of view

The next step is to consider the following:

- What is the true and substantial nature of what is supplied to the recipient for their payment?
- What are the relationships (if any) between any of the elements of what is supplied, e.g. is one ancillary or incidental to another or is one necessary or integral to another?
- Is it reasonable and practical to sever the elements into separate supplies?

3 Is there a sufficient distinction between the different elements of a transaction?

Finally, the analysis should consider the essential purpose of the transaction and assess whether there exists sufficient distinction between the different elements of the transaction so that there is a commercial basis for severing them into separate supplies.

If, on an objective analysis, it would be artificial to split the transaction into separate supplies, then there will only be one composite supply.



Illustrative examples

An example of **multiple** supplies is a general insurance policy with a life insurance rider. Inland Revenue's approach would treat the general insurance cover as a taxable supply while the life insurance cover would be a separate exempt supply.

An example of a **single** supply is financial services provided by a bank, for example, loan or credit. The bank may also provide incidental administrative services (e.g. mailing monthly statements) in addition to the financial services. The administrative services are not the basis for the legal agreement and they are ancillary and incidental to the financial services provided. There is only one supply of exempt financial services by the bank and it would be artificial to split the supply.

The following examples are included in Inland Revenue's draft statement:



1. Education: Pre-arrival services provided to overseas students are part of a broader education service package and so are considered to be ancillary or incidental to the supply of the education. Inland Revenue accepts there is a single supply of education services subject to GST at the standard rate.

- The interpretation of this scenario has been contentious as there are a number of materially different factual and contractual arrangements.



2. Banking: A bank provides a tablet as part of its mortgage promotion. The supply of the tablet is incidental, minor or peripheral to the dominant part of the transaction, being the mortgage. The supply of the tablet is not sufficiently distinct to make it reasonable to sever it from the mortgage. Therefore, there is a single exempt supply of the mortgage.



3. Credit card surcharge: A theatre box office charges a credit card surcharge on its theatre tickets. The dominant supply is the theatre ticket (or entertainment) and the credit card aspect is merely ancillary to the theatre ticket supply in that it enables the dominant supply to occur. Therefore, there is a single taxable supply of theatre tickets and the value for GST purposes includes the credit card surcharge.



4. Loyalty programme: Services provided by a retail store for promoting and maintaining a bank's credit card loyalty programme. The agreement between the retail store and the bank provides for a package of services – with the promotion and maintenance of the loyalty programme being the dominant supply and the account payment facilitating services ancillary or incidental to this supply. Inland Revenue concludes there is a single supply of promotion and marketing services subject to GST at the standard rate.

GST and land transactions

In the first five years of compulsory zero-rating (CZR) of land transactions we have seen a number of practical issues that have led to errors in the GST treatment. Lack of care and poor execution of contracts are the biggest issues with CZR in practice. All too often the GST schedule and the front page GST question in the ADLS/REINZ contract are incomplete. Parties have suffered cash costs through lack of proper care and rushing transactions without adequate advice. This is surprising as the policy of CZR is both sound and simple.

The CZR rules were introduced in April 2011 and require a transaction to be zero-rated if:

- a. the transaction involves land (any interest in land will do, e.g. \$1 lease assignment); and
- b. the vendor is GST-registered; and
- c. the purchaser acquires the property to use in making taxable supplies and not as a principal place of residence. The residence exception covers associates of the purchaser.

Our March 2016 issue of GST Direct discussed common mistakes with CZR. This edition includes handy checklists to help the vendor and purchaser.



The golden rule is for each party to take advice, confirm the other side's GST position before settlement and ensure the contract is completed accurately.

Vendor's checklist

The vendor's checklist should cover:

- a. Is the front page question on the vendor's GST status completed?
- b. Has the purchaser answered ALL the questions in the GST schedule and has the vendor considered the impact of these answers? If the GST schedule is incomplete, the vendor needs to press for the answers before settlement or, if not provided, charge GST.
- c. Ensure the purchaser has advised any change of particulars before settlement.
- d. If selling a business and residence at the same time, consider if the supply of the residence is a separate supply and the GST impact. If there are two or more residences on the land, special GST considerations apply.
- e. If CZR applies, do not charge GST.
- f. If a GST deduction has previously been claimed in respect of the property, consider the special GST adjustment rules in respect of the sale.
- g. If no land interest is being sold, consider the standard GST rules or the going concern rules.
- h. Special rules applying to lease transactions need to be considered.
- i. A GST-registered vendor should always use 'plus GST' pricing.

The golden rule - please take advice.

Purchaser's checklist

The purchaser's checklist should cover:

- a. Is the front page question as to the vendor's GST status completed? If the purchaser is intending to claim a secondhand goods deduction the purchaser MUST get confirmation in writing of the vendor's GST status.
- b. Has the purchaser answered ALL the questions in the GST schedule including potential as to use of a nominee?
- c. Ensure that any change of the purchaser's particulars are advised before settlement. Ensure the vendor confirms the same - this mechanism does not exist in the standard real estate contract so the purchaser needs to be proactive.
- d. If buying a business and residence, consider the GST impact in respect of the residence as special rules apply to the residence and CZR may not apply. Special GST issues can apply if there are two or more residences on the property.
- e. If CZR applies, do not claim a GST deduction as none should be charged by the vendor.
- f. If the use of the property changes after settlement consider the special post-settlement GST adjustment rules.
- g. If no land interest is being purchased, consider the standard GST rules or the going concern rules.
- h. Special rules applying to lease transactions need to be considered.

The golden rule - please take advice.

Contact us

If you have any questions regarding the issues covered in this publication, please contact your usual PwC adviser or a member of our GST team. Our team can help you by delivering practical GST and Customs solutions and effectively managing your indirect taxes risk.

Auckland



Eugen Trombitas
Partner
T: +64 9 355 8686
E: eugen.x.trombitas@nz.pwc.com

Waikato



Hayden Farrow
Executive Director
T: +64 7 838 7422
E: hayden.d.farrow@nz.pwc.com

Wellington



Phil Fisher
Partner
T: +64 4 462 7159
E: phil.j.fisher@nz.pwc.com

Hawkes Bay



Tomae Hallgarth
Senior Manager
T: +64 6 833 3723
E: tomae.c.hallgarth@nz.pwc.com



Ian Rowe
Director
T: +64 4 462 7274
E: ian.rowe@nz.pwc.com

Taranaki



Brent Hulbert
Partner
T: +64 6 768 3820
E: brent.hulbert@nz.pwc.com



Michelle MacDonald
Director
T: +64 4 462 7163
E: michelle.d.macdonald@nz.pwc.com

Canterbury



Sandy Lau
Director
T: +64 4 462 7523
E: sandy.m.lau@nz.pwc.com



Henry Risk
Director
T: +64 3 374 3034
E: henry.c.risk@nz.pwc.com

Otago



Richard McKnight
Partner
T: +64 3 470 3607
E: richard.mcknight@nz.pwc.com