

# ***GST Direct:***

Bringing you the latest GST  
and Customs developments

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**Issue 27**

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# More GST changes on the horizon

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*A GST issues paper released on 17 September 2015 by officials (Inland Revenue and Treasury) contains a number of proposed GST policy and remedial issues. The link to the issues paper can be found on Inland Revenue's Tax Policy website: [click here](#)*

The issues paper addresses two significant GST matters:

- a. ability for businesses to deduct GST on costs associated with a capital raising - this is a good news story for business; and
- b. a proposal to impose GST at 15% on services performed for a non-resident that are directly in connection with land in New Zealand. Currently services such as legal services, conveyancing, and selling property in New Zealand for a non-resident can be zero-rated.

There are several other GST proposals discussed in the issues paper and we cover these briefly below.

The release of the issues paper comes hot on the heels of the August discussion document on GST and online purchases. These developments demonstrate how significant GST is to the Government. With GST nudging 30% of the overall tax take businesses can expect more scrutiny from Inland Revenue (IR). Our recent experience is that IR has been more systemic and robust in its approach to reviewing GST obligations.

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***Submissions are due by 30 October 2015.***



***The developments demonstrate how significant GST is to the Government.***

# GST deductions on capital raising costs

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*IR has been scrutinising capital raising transactions involving IPOs and bond issues. IR has traditionally taken the view that the share or bond issue (to raise capital) is an exempt supply of a financial service.*

Under this analysis, a business that makes taxable (or partially taxable) supplies is unable to deduct in its GST return any GST charged on capital raising costs (such as GST on legal fees and valuation work).

Businesses have argued that if all their sales are taxable (i.e. at 15% or zero-rated) they must be able to recover GST on all their costs. Some businesses have relied on specific zero-rating rules for GST recovery but this is not always possible resulting in cash cost (due to the irrecoverable GST).

The issues paper concludes that a business carrying on a taxable activity should be able to claim GST on capital raising costs as these costs relate to the taxable activity. Any law change will be prospective only, proposed to be from **1 April 2017**.

We welcome the proposed law change. The tax policy solution is the correct one. There will no longer be a different GST outcome for offshore and domestic capital raisings – a market distortion will be removed in that GST can currently be deducted for an offshore capital raising but not for a domestic one. Businesses raising capital will appreciate the certainty presented in the issues paper and will no longer have to consider ways to mitigate (such as through zero-rating) the cash cost of lost GST deductions.



# ***GST on services to non-residents directly in connection with land in New Zealand***

*This GST issue concerns services provided to non-residents that relate to land situated in New Zealand. Under the current law and IR practice, certain services performed for a non-resident can be zero-rated even if they relate to land in New Zealand.*

The general zero-rating rule in the GST Act allows GST to be charged at 0% (and not 15%) if:

- a. the services are performed for a non-resident who is outside New Zealand, and
- b. the services are not directly in connection with land or goods in New Zealand.

The issues paper deals with the criteria in b) above and proposes that various services will instead be subject to GST at 15% from April 2017. These include services relating to integrity and risk assessment of land, intermediation in the sale or lease of land (by real estate agents and property managers), architectural, design and engineering services relating to a particular site, and legal services.

Some services for non-residents are stated to be not subject to GST at 15% (and can be zero-rated) as they would not be directly connected with the land e.g. providing information on property prices, market research and tax advice on investing in property.

## **Important points to note:**

- the zero-rating rule has traditionally been interpreted to allow zero-rating so long as there is no physical interaction with land or goods (e.g. digging the land or painting a truck for a non-resident would incur GST at 15% but this would not be the case for other services);
- if New Zealand imposes GST at 15% on legal services supplied to a private consumer in Australia (i.e. consumer is not registered for GST) the impact of the proposed Australian GST digital services rules could also mean the New Zealand law firm has an Australian GST exposure at 10%. This would mean GST being charged in both countries.

The issues paper notes that other countries such as Australia and Canada impose standard rate GST in similar situations. We will be submitting on this issue and we encourage law firms, real estate agents and other property services businesses to do the same.



***It is proposed that various services relating to land will be subject to GST at 15%.***



# ***GST apportionment for large businesses***

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*There is a welcome GST change on the horizon for large businesses that make taxable and exempt supplies and are required to apportion the amount of GST they may recover.*

Currently, only financial services providers can agree a GST apportionment method with the Commissioner under a specific rule in the GST Act.

The issues paper proposes a law change that will allow large businesses that make both taxable and exempt supplies (annual turnover of \$24m plus) to agree a specific GST apportionment method with the Commissioner. An example of affected large businesses is retirement village operators. This measure will reduce the compliance burden and increase certainty. This is another positive change. Submissions will need to focus on whether businesses with turnover below \$24m should be eligible.



## ***Other GST issues covered***

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*There are various other GST matters covered and many of these are good news stories for business. They include:*

- GST refunds: time limits for clear mistake or simple oversight. A current anomaly that prevents refunds beyond four years and up to eight years is to be corrected with effect from 1 April 2005.
- Notification that a GST refund is being withheld to be set according to when a notice is issued by the Commissioner rather than when it is received.
- Tidying up aspects of compulsory zero rating rules for commercial leases.
- Changes to the time of supply rules when the consideration for services is unknown.
- Modifying aspects of the non-resident GST registration rules in section 54B.
- Allowing a limited partnership to be included in a GST group.
- Changing the eligibility test to qualify for six-monthly GST return filing – businesses will be able to apply for six-monthly filing even if they exceed the annual threshold of \$500,000. This is a beneficial change that will allow more businesses to apply for six-monthly filing (e.g. all supplies are made in one season or they exceed the threshold on a one-off basis and the business does not expect to exceed the threshold in the future).
- Allowing zero-rating on goods and services (e.g. painting a yacht) supplied in relation to a boat or aircraft that is to be exported under its own power.
- Correcting an anomaly for GST-registered non-residents importing and exporting the same goods.
- Allowing a secondhand goods deduction for goods manufactured from non-fine gold, silver or platinum (with a four year retrospective application from the date of enactment).

# 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.

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