

GST transitional changes announced

The Government today announced that draft legislation will be included in the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver and Remedial Matters) Bill to ease the transition for businesses into the 15% GST rate.

The commentary on the proposed changes is available at www.taxpolicy.ird.govt.nz. A copy of the draft legislative amendments is available on request from Inland Revenue; however, for taxmail readers' convenience the amendments can be downloaded from www.taxmail.co.nz. Feedback on the proposals is requested by 16 August.

The new rules reflect the recommendations of the GST Advisory Panel, which was set up to ensure the transition ran smoothly. The Advisory Panel has made these recommendations as a result of submissions from the public, business and tax advisors.

KPMG welcomes the changes, which should help businesses to better transition to the new GST rate in the short timeframe imposed. However, some of the concessions may still create problems for businesses to grapple with. It should also be noted that these concessional provisions are elective on the part of the supplier, which means that there will be a cost/benefit trade-off for businesses to consider.

Finance Leases

The Government is proposing a transitional option for finance leases of goods – such as motor vehicles or office equipment. These are often supplied to businesses or consumers as part of a long-term lease arrangement.

Where the lease has been entered into before 1 October 2010 and has a term of 5 years or less, the lessor may continue to charge GST at 12.5%. If this option is elected, customers who are GST registered will need to be notified that this is the case, to ensure input GST at the higher 15% rate is not claimed.

KPMG comment

We welcome this change, which will be useful for lease financiers. This will particularly be the case where the GST on the lease payments has been

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recorded on a "straight line" basis (i.e. an equal portion of the GST is charged in each year of the lease) or where lease payments for a period of several years have been hard coded into systems.

There is unlikely to be significant revenue loss for Government from this amendment as these leases are often provided to GST registered businesses, who can claim the GST back. However, there will be a revenue cost from leases made to end consumers and also businesses that are unable to fully recover their GST expense (e.g. due to exempt activities).

The proposed change will also reduce the administrative problems that would have occurred due to the requirement to issue adjusted tax invoices (this change is discussed later on). It also minimises potential conflicts with the Credit Contracts and Consumer Finance Act 2003.

Businesses that elect to take up this new option will, however, need to consider system ramifications of managing two GST rates for leases entered into pre, and post, 1 October.

Annual successive supplies including insurance premiums

The Government is also proposing a "grand-parenting" option for existing contracts for a successive supply of services, where payments are made periodically, that span 1 October 2010. This will be of particular significance for insurance contracts that are for a period of one year or are renewed annually, but can also apply to other contracts.

GST can be charged at 12.5% for the remainder of the contract, up to the next annual review date of the contract. However, if this concession is taken up, all of the GST on these future payments must be returned in the GST period ending before 1 October 2010 (i.e. the 30 September 2010 GST return). Note that, once again, where this option is elected, customers who are GST registered will need to be notified that this is the case to ensure input GST at 15% is not claimed.

KPMG comment

KPMG welcomes this concession for insurers and other service providers. However, registered persons will need to consider whether the practical difficulties in electing into the option will outweigh any advantages. For example, businesses will need to consider their systems, and how they will exclude accounting for GST on subsequent invoices. There will also be a cash cost from returning all of the remaining GST in the September 2010 quarter. As with the finance lease changes above there will be the requirement to manage two GST rates.

Subrogation payments

Subrogation payments (i.e. payments to an insurer to compensate for the damages caused by a third party to the insured party) received by an insurer post 1 October 2010, relating to claims agreed and settled before 1 October, can be accounted for at the 12.5% GST rate.

KPMG comment

The proposed change should remove the mismatch between GST on claims, and recoveries, for insurers. Without this amendment, subrogation payments received from 1 October onwards, for claims settled before this period, would be required to have GST returned at 15%. This would result in a further unrecoverable cost to insurers.

Lay-by sales

Lay-by sales have a special time of supply rule – the GST rate that applies to the entire sale is the GST rate prevailing at the date of the last payment. This is also when the GST becomes payable by the retailer.

Government is proposing a concession for lay-by sales, payments for which span the 1 October 2010 period and where the transactions were entered into before 20 May 2010. This new rule will allow the GST to be returned at 12.5% for those payments made before 1 October with the supplier required to return the GST in their September 2010 GST return.

KPMG comment

KPMG welcomes the proposed concession – this is the fair outcome for both consumers and retailers. Without the proposed concession, goods sold under a lay-by agreement where the last payment is made on or after 1 October would attract GST at 15% on the entire transaction. This would be unfair on consumers (particularly if the majority of the payments were made before 1 October) and would also create issues for retailers from obtaining the additional 2.5% GST from customers.

The change will create some system issues for those lay-by sales spanning 1 October. Systems will need to be adapted to not trigger the GST at 15% on the entire sale.

Periodically billed services

A concession will be granted to those suppliers who successively provide services that are periodically billed – for example, utility providers such as water, power or gas; or insurance companies.

The concession allows for invoices dated on or before 30 September 2010, which are physically issued by 11 October, to be charged GST at the 12.5% rate provided payment is required within 60 days of the invoice date.

KPMG comment

The current time of supply rule treats successive supplies of services as being provided at the earlier of when a payment becomes due or is received (i.e. the issue of an invoice does not trigger the time of supply).

The proposed change is sensible as, in reality, suppliers of the above types of services may use the invoice date (which would generally be an earlier date) as the GST time of supply trigger for convenience. This is also notwithstanding that the relevant services may not yet be provided (e.g. it may be a pre-payment for services).

In the absence of the concession, all pre-1 October invoices, with payment due after this date, would attract GST at 15%. This would lead to significant practical difficulties for service providers to manage.

Replacement invoices

A concession has been introduced to allow replacement invoices to be issued to reflect the new GST rate from 1 October 2010. This is in lieu of issuing a debit note for the increase in the GST amount or, alternatively, issuing a credit note for the remaining successive supplies, prior to issuing a new invoice.

KPMG comment

This is another pragmatic solution to what would have been a confusing issue for customers and an administratively cumbersome work-around for suppliers. The concession enables businesses that provide successive supplies and issue perpetual invoices (e.g. landlords) to simply issue a replacement invoice for the successive supply with the revised GST content.

This will also provide relief in situations where goods are returned (e.g. because they are faulty) and replacement goods are provided.

Issue date versus invoice date

Under current time of supply rules, it is the issue date of the invoice that often determines the time of supply, rather than the invoice date (although commercially the date the invoice is raised will typically be the trigger). In practice, invoices dated, say, 30 September may physically be issued after this date.

Invoices for goods and services supplied on or before 30 September 2010 will be allowed to have GST charged at the 12.5% rate, if the invoice is issued by 11 October and payment is due within 60 days of the issue date.

KPMG comment

The proposed change will allow businesses a reasonable period of time to issue invoices for pre-1 October supplies to customers. The practical benefit is that month-end processes for billings can be run after 30 September with complete information available for activity during September. Businesses receiving invoices in October will need to ensure they have systems in place to ensure the correct GST input tax is claimed.

Private Training Establishment fees

Private Training Establishments will be able to return GST at the 12.5% rate to the extent fee payments have been received, and are held in trust, for fees received prior to 1 October 2010 that are released to the education provider after this date.

Under normal time of supply rules, the GST is triggered when the fees are released from being held in trust. The proposed change will enable GST to be returned at the 12.5% rate for those fees received prior to 1 October and still held in trust as at 30 September. The 12.5% rate is elected by filing the 30 September GST return with these amounts included.

KPMG comment

There may be practical issues for suppliers as they will not have the cash from the money held in trust to pay the GST. This trade-off needs to be considered by affected organisations.

Further information

The GST transitional issues, and the Advisory Panel's proposed solutions, highlight risk areas that we have been working through with clients. KPMG will be working through the detail of the changes and the draft legislation in the coming days to ensure these amendments are workable.

If you require further information on the GST transitional issues or would like to discuss how KPMG can assist you with the transition, including making a submission on the proposed transitional changes and determining whether these concessions should be elected into, please contact:

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