

TaxTeamTalk

Crown Entity edition May 2011



This issue at a glance

Determining GST input tax entitlement

Land transactions

Supplies of accommodation

Accommodation provided to employees

Restructuring and amalgamations

FBT fourth-quarter calculation

Policies

Key dates

New rules from 1 April 2011

This issue of the Crown Entity newsletter outlines the key GST changes arising from the *Taxation (GST and Remedial Matters) Act* ("Act"). Our discussions with clients have revealed a lack of preparation for these changes.

The changes *directly* impact on Crown Entity GST compliance procedures, so systems need to be amended accordingly. The key changes relate to:

- The requirements for determining GST input tax entitlement;
- Transactions involving land; and
- The treatment of supplies of accommodation.

We also outline the following areas of particular interest for the sector:

- Accommodation provided to employees – risks and opportunities;
- Restructuring and amalgamations – heightened risk of IRD review; and
- FBT fourth-quarter calculation – things to keep in mind.

Finally, we provide a brief summary of "Key Dates" over the coming months to keep in mind.



Determining GST input tax entitlement

From 1 April 2011, the entitlement to a deduction for GST input tax will be based on a fair and reasonable estimate of the intended taxable use of the good or service acquired.

The new rules only apply to organisations where the total value of exempt supplies exceeds:

- \$90,000; or
- 5% of total consideration received for all taxable and exempt supplies.

Those organisations must now specifically evaluate each good or service acquired, to determine the extent to which it is used to make taxable supplies. If you only acquire goods and services for 100% taxable or 100% exempt use, the applicable GST treatment will not change. However, for goods and services acquired for a "mixed use", you will now be required to:

- Claim GST input tax on acquisition only to the extent to which the goods or services are used for making taxable supplies;
- Monitor the usage of the good or service, and make GST adjustments where a "significant variance" in use occurs;
- Consider whether a further GST input tax adjustment is available upon disposal of goods; and
- Apply special rules to determine GST input tax entitlements/adjustments where the good acquired is land.

If you are already making change-of-use adjustments for some supplies, the old rules will continue to apply, and will be slowly phased out over time.

We recommend seeking advice if you are uncertain whether the new rules apply to you.

Land transactions

The new rules have *significantly* changed how GST is accounted for on land transactions.

From 1 April 2011, the supply of land, or a supply that involves land, to another GST-registered person for taxable purposes *must be zero-rated* (i.e. charged with GST at 0%). To zero-rate a supply involving land, your organisation will need to hold a written statement from the purchaser stating that they:

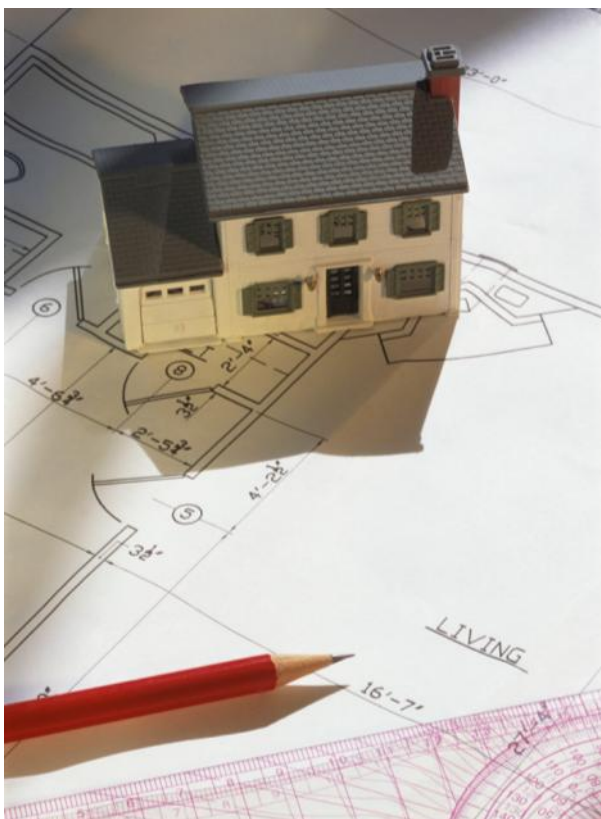
- Are GST-registered;
- Intend to use the land to make taxable supplies; and
- Do not intend to use the land as a principal place of residence for themselves or an associated person.

Your organisation must also be prepared to provide similar statements when it purchases land, and understand the consequences of such statements.

The rules also shift the risk of applying the wrong GST treatment from the supplier to the purchaser. That is, your organisation would be liable for any tax shortfall if you were to make a false or incorrect statement on a land purchase.

A new definition of “land” has also been introduced. For the purposes of the zero-rating rules and the new apportionment rules, land is defined broadly, and includes an interest, or a right to an interest, in land.

For zero-rated land with a mixed use (e.g. purchased for a taxable activity but temporarily let out for exempt accommodation), you must apply the new GST apportionment rules and make a GST output tax adjustment to the extent of the exempt use.



Supplies of accommodation

Organisations that supply accommodation (whether or not to employees) need to be aware of the following GST changes:

- The definition of “dwelling”, the rental of which is exempt from GST, has been narrowed; and
- The extent of accommodation treated as a *commercial dwelling*, which is subject to GST, has broadened.

As a result, some forms of accommodation may now be subject to GST that previously were not, or vice versa, and your organisation’s existing GST treatment may need to change in line with the amended definitions.

Under the new GST apportionment rules, the extent to which a good or service is used for making taxable supplies is fundamental in determining any GST input tax entitlement.

Your organisation should review its accounting for supplies of accommodation, to ensure that it accords with the new GST accommodation and apportionment rules.

Accommodation provided to employees

The PAYE treatment of accommodation provided to employees has also changed. Unfortunately, the amendments have provided little clarity.

The provision of accommodation to an employee is subject to PAYE according to the market value of the benefit to the employee, with these changes having effect from the 2008-2009 income year. *Prima facie*, this is more equitable than the previous “market value of the accommodation” requirements. However, in practice, difficulty remains around determining the *market value of the benefit*—whether it is the market value of the accommodation or a subjective value of the benefit to the employee.

During discussions on the matter, it has become apparent that the IRD is also unclear on how these rules apply. With this uncertainty come risks and opportunities.

If your organisation provides accommodation to employees, we recommend contacting us to discuss PAYE treatment.

Restructuring and amalgamation

The Government has recently suggested that a number of cost-saving measures are likely to be announced in this year's budget, including major restructuring and amalgamation of certain departments. This could also extend to Crown Entities.

Any form of restructuring is likely to be highly stressful for affected staff, involving significant work to integrate financial systems, policies and procedures into the new/restructured entity.



IRD investigations

Adding to the stress, the IRD has taken a particular interest in ensuring that the tax affairs of certain entities are in order prior to any major restructuring or amalgamation. Typically, this involves the IRD issuing 'risk questionnaires' to affected entities shortly before or after any planned restructuring takes place.

In our experience, this risk questionnaire is often followed by an on-site IRD investigation, which requires staff time and resources. Our recent experience assisting clients to manage such investigations has shown that it is critical to establish guidelines and boundaries with the IRD early in the investigation. Engaging a third party to manage the investigation will reduce any additional pressures being placed on finance staff.

Independently of restructuring and amalgamations, we are also aware that several Central Government organisations have recently been subjected to full-scale IRD investigation, indicating that the IRD continues to be active in the public sector.

Effective management is critical to minimise disruption and potential shortfall penalties.

Redundancies

With the announcements on Central Government restructuring, and calls for decreased public-sector spending, staff will, understandably, be under stress as to job security.

Redundancies may be required, and the recent extension of the redundancy tax credit to 30 September 2011 can provide some relief.

The redundancy tax credit, entitles an employee to a tax credit of 6% of their total redundancy payment, up to a maximum \$3,600. To receive this credit, employees will need to file an *IR 524 Redundancy tax credit* form outlining the details of the redundancy payment. This form is available on the IRD's website (www.ird.govt.nz).

Where possible or practical, employers should make redundancy payments before 30 September 2011 so that employees can claim this credit.

FBT fourth-quarter calculation

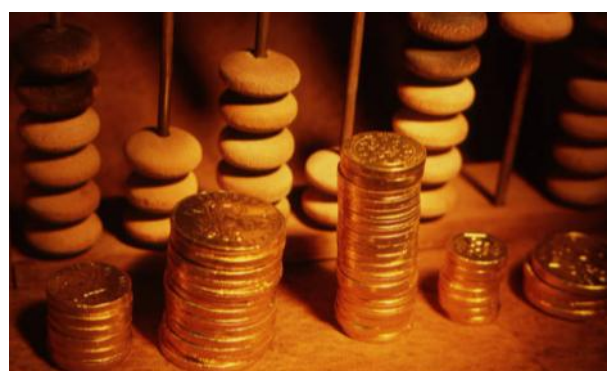
Post-31 March 2011, many of you will now be preparing your fourth-quarter FBT return.

Due to personal income tax rate-reductions effective from 1 October 2010, the FBT rates applicable on the third and fourth quarter have changed, as has the composite tax rate for employees over the course of the year. This further complicates an already complex calculation.

If you would like our assistance in reviewing/providing further comfort on your fourth-quarter FBT return, please contact us. This is a common request by clients, which we expect to increase given these rate-reductions.

It is worth noting that these rate-reductions have also reduced the difference between the highest and lowest marginal tax rate. Consequently, there may be less benefit in carrying out an FBT alternate-rate calculation, which is an added resourcing requirement.

While reviewing the FBT calculation, we can assess whether performing an alternate-rate calculation is worthwhile going forward.



We're right there with you

Given the extent of these changes, please contact us if you would like to discuss the new rules and what we can do to help.

Policies

We have updated our online GST tax policies to provide subscribers with further specific guidance on the new rules.

Crown Entities that do not currently subscribe to our online policies but would like further information should contact us on (04) 494 2390.

Key dates

1 April 2011	TaxTeam online policies updated New GST apportionment rules take effect
22 – 25 April 2011	Easter break
5 May 2011	April PAYE payment and employer monthly schedule due
9 May 2011	March GST return due
19 May 2011	Budget Day
30 May 2011	April GST return due
31 May 2011	March quarter FBT return due, including multi-rate attribution calculation
6 June 2011	Queen's birthday
7 June 2011	May PAYE payment and employer monthly schedule due
28 June 2011	May GST return due

TaxTeam lead staff



Richard Toovey
Director



Michelle Macdonald
Director



Jeff Eaton
Director



Phil Fisher
Senior Manager



Mike Brunner
Senior Manager

Level 6
44 Victoria Street
PO Box 44
Wellington
New Zealand

T 04 494 2390
F 04 494 2399

www.taxteam.co.nz



Stuart Clouden
Manager



Rochelle Roddick
Manager

© 2011 TaxTeam. All rights reserved. TaxTeam Talk is designed to provide a commentary on the issues covered therein, and should not, under any circumstance, be regarded as a substitute for professional advice. Toovey Eaton & Macdonald Ltd will accept no liability for loss or damage incurred as a result of reliance upon this issue of TaxTeam Talk.