

## Special Tax Alert GST Update



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### GST rate change rules finalised

Following the release of draft legislative amendments regarding the transitional “fixes” to smooth the way for the GST rate rise, Inland Revenue received an influx of submissions.

We are pleased that the Government has listened to the public and adjusted the proposed legislation accordingly. This is represented in the practical solutions devised. However, some systems and operational problems may still exist as we close in on the 1 October deadline.

We have amended our handy table with changes brought about from the second and third readings. These have been noted in blue for ease of reference.

The rate change transitional provision amendments cover the following areas:

- Invoices for pre-October supplies
- “Annual” contracts involving successive supplies
- Insurance contract payments received after 1 October
- Finance leases for goods or services.

These changes are a reaction to some of the practical issues that would have arisen. Some of the changes include extending the 12.5% rate for “annual” contracts and requiring insurers and finance lease providers to notify their customers if they opt to apply GST at 12.5% post 1 October.

The first change helps the insurers; the second change helps those businesses that need to know whether to claim GST back at 12.5% or 15%. However, systems issues may still create problems for them.

Please note that “insurance contract payments received after 1 October 2010” is a new insertion implemented after the second reading.

In relation to the zero-rating of all business-to-business commercial land transactions and the new change of use provisions, submissions are still open on the Bill if you wish to have your say. However, be quick as submissions close for this on 9 September 2010.

For more information please contact us.



# GST rate transition and other matters

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Updated as at 24 August 2010 (substantive changes noted in blue)

	Present Treatment	Transitional Treatment	Businesses Impacted	Advantages	Disadvantages
"Annual" contracts with successive supplies	GST is charged at the time of each successive supply. Therefore GST will be charged at 15% from 1 October. Compliance costs of doing this may be excessive.	New rule is that insurers and others have the option of applying the 12.5% GST rate for the rest of the contract period up to 396 days. This is provided that all the remaining GST for the contract is accounted for in the return period in which the rate change day takes place. <a href="#">Some form of general notification (e.g. via website) must be made within 30 days of the rate change day.</a>	General and health insurers and other service providers.	Is an election based rule and will help simplify GST for some insurance companies.	Some systems issues may arise around accounting for all GST before 1 October. There is a cash flow consequence to the person charging the GST.
Insurance contract payments received after 1 October	GST is charged at the time payment is received. GST will be charged at 15% for any payment received on or after 1 October.	The new rule will allow a payment for insurance made on or before 30 September but not received until on or after 1 October to apply GST at 12.5% provided the payment is received by the registered person on or before 11 October.	All businesses.	Will reduce the GST costs for some insurance payments received on or after 1 October.	Need to know full payment date details.
"Finance Leases" for goods or services	GST is charged at the earlier of the payment falling due or being paid for each installment. Therefore payments made after 30 September must have GST charged at 15%.	New rules allow the option for <a href="#">credit contracts</a> entered into pre 1 October to be able to account for GST at the 12.5% rate for the entire life of the contract up to a maximum term of 5 years.  <a href="#">There is a requirement that the "interest" element of each payment must decrease over time. The amendment is focused on resolving the GST recalculation process upon a GST rate change for these finance leases.</a>	Providers of these types of credit contracts.  Recipients of any goods or services under such credit contracts.	Will reduce the GST cost for contracts entered into before 1 October.  Reduces compliance costs for suppliers.	Could cause systems issues.  May increase compliance costs for recipients.
Invoices for pre-October supplies	GST is charged at the earlier of the issue of an invoice or receipt of any payment. Therefore an invoice issued after 30 September must have GST at 15% even if goods/services are provided before 1 October.	Suppliers have the option to charge GST at 12.5% on invoices issued on or before 11 October (in the ordinary course of business). <a href="#">The supply of goods or services need not be provided on or before 30 September. (This change may significantly reduce compliance costs from the original proposal that excluded any form of billing in advance.)</a>  Requirements are that the invoice is dated pre 1 October and payment is due no later the 60 days from invoice date.	All businesses.	Gives support to current business practice.	Could cause systems issues.
Successive supplies which account for GST when invoice is issued	GST is currently paid when invoice is issued. An invoice issued on or after 1 October will be charged at 15%.	New rules offer the option to suppliers to choose either the invoice or payment due or received rule.	Mainly utility companies.	Provides certainty for current business practice and a GST legislative review is likely.	Could cause system issues.

	Present Treatment	Transitional Treatment	Businesses Impacted	Advantages	Disadvantages
Replacement tax invoices	Cannot issue two tax invoices for the same supply. Credit or debit note must be issued. Some businesses do not follow this rule.	Where a credit or debit note was previously required, a replacement tax invoice could be issued to replace pre 1 October invoices for any goods or services supplied.  An option is available to issue a new tax invoice at 12.5% if it relates to a revised invoice issued pre 1 October.	All businesses.	Customers will not lose purchasing power when returning goods or disputing invoices for services provided before 1 October.	Systems such as check out tills may not be able to cope with the change.
Layby sales	GST is charged when the goods are delivered.	New rules allow suppliers to elect to apply the 12.5% GST rate to contracts entered into pre 20 May to the extent that any payments in relation to the transaction were received before 1 October. These payments would be required to be returned in the supplier's September 2010 GST return.	Retail businesses.	Laybys entered into with GST at 12.5% will not need to be amended for the rate change.	Could create systems problems. Some businesses have already increased prices to deal with this.
Subrogation payments	GST is charged when the insurer receives the damages payment.	Subrogation payments received on or after 1 October to the extent the underlying claim has been agreed and settled before 1 October will be subject to GST at 12.5% if elected by insurer.	Insurers.	Claims that have been settled pre 1 October will not incur a greater GST cost if payment is not made till post 1 October.	Could create systems problems.
Private Training Establishments (PTEs)	Full fees are paid into a trust by the students. GST is charged when payments are released from the trust.	New rules give the option of making an up-front adjustment in the September 2010 GST return to cover the additional GST that would be payable when the course fees are subsequently released.	PTEs.	Option allows PTEs to avoid a GST cost they would have to incur.	Could create systems problems
	Present position	New rules			
Land transactions	Unless specific rules apply, GST is charged at 12.5%.	Where purchasers and vendors are both registered, GST will be charged at zero percent.	This is applicable from 1 April 2011.	See our website for more detail.  <a href="#">Closing date for submissions 9 September 2010</a>	
Change of use	These are adjustments which apply when goods or assets are used for both a taxable and a non taxable activity. Presently the adjustments are based on a "principal purpose" test.	The new rules allow a GST deduction of input tax credits to the extent that the goods or services are used to make GST taxable supplies. Ongoing adjustments are required if the percentage of taxable usage changes from the original intended percentage of taxable usage.	Old rules apply to assets purchased before 1 April 2011 and the new rules for assets purchased after that date.	See our website for more detail.  <a href="#">Closing date for submissions 9 September 2010</a>	

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