

## **GST: INTERNATIONAL TRAINING**

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### **Summary of proposed amendments**

The Goods and Services Tax Act 1985 (GST Act) is being amended to change the rules governing when a non-resident business can register for GST and claim input tax deductions.

As GST is intended to be a tax on final consumers rather than businesses, the amendments are intended to allow non-resident businesses to register and claim deductions in a broadly similar manner to a comparable New Zealand-resident business.

Non-resident businesses will, however, only be able to register if they are either registered for a consumption tax (such as GST, or value added tax in Europe) in the jurisdiction of which they are resident. If they reside in a country that does not have a consumption tax, the non-resident will need to satisfy the Commissioner that they carry on a taxable activity overseas with a turnover exceeding \$60,000 per annum.

Other provisions are also being proposed to protect the revenue base from fraudulent refunds. These provisions include the Commissioner having the ability to deregister a non-resident in certain circumstances.

### **Key features**

#### ***Registration***

Under section 51(3) of the GST Act, the Commissioner has the discretion to register any person that carries on a taxable activity, even if their taxable supplies are below the compulsory registration threshold. This section currently applies to both residents and non-residents that carry on a taxable activity.

New section 54B will apply to a non-resident that wishes to voluntarily register in New Zealand. New section 20(3L) will allow non-residents to claim input deductions without the need to be making taxable supplies in New Zealand.

Section 54B sets out that a non-resident can only register if they satisfy the Commissioner that:

- they are registered for a consumption tax in the jurisdiction they are resident in. This would include, for example, GST in other jurisdictions or VAT in Europe; or
- if they are resident in a jurisdiction that does not have a consumption tax, they carry on a taxable activity in another country that would require them to register for GST if that activity were carried out in New Zealand.

**Example 1**

Air Africa is a passenger airline operating out of Cape Town. It flies domestically within South Africa and internationally. It sends some trainee pilots to New Zealand for some specialised training and incurs GST on those training costs.

If Air Africa were a New Zealand-resident airline making only domestic flights, its supplies would all be taxable. The training is expenditure for services that are used in making its general supplies of passenger transport. As a result, Air Africa is entitled to claim all of the GST incurred as a deduction. Assuming it makes no taxable supplies in New Zealand, the GST incurred will be available as a refund.

**Example 2**

Bank Co is a financial services and insurance provider that is registered for GST in Australia and is looking to expand into New Zealand. It registers for GST in New Zealand and incurs GST on professional services fees it receives from a New Zealand provider. Its Australian business comprises 50% household mortgages, 25% life insurance and 25% health and contents insurance.

Both the mortgage provider and life insurance components of its business would be exempt if they were made and received in New Zealand on the basis that they are financial services. Bank Co can therefore claim 25% of the GST incurred as a deduction in its New Zealand return.

A proposed amendment to section 20(3K) will also clarify that the input deduction rules that apply to non-profit bodies are limited to New Zealand resident non-profit bodies.

***Registration status and administration***

It is proposed that non-residents will only be able to be registered on a payments basis. New sections 19(1A) and 19A(1)(iv) will facilitate this. The provision is designed to limit the possibility of a non-resident claiming a refund on the basis of invoices provided by registered residents on which no payment is made and, therefore, no GST is paid. This is a tax base protection measure.

Similarly, proposed section 46(1B) will extend the timeframes for the Commissioner under section 46 from 15 days (as applies to residents) to 90 days for non-residents in certain circumstances. These are:

- issuing a refund;
- requesting further information; and
- investigating the circumstances of a return.

Extending the timeframes in these circumstances will afford the Commissioner more time to establish that a refund claim by a non-resident is valid. The extended period will allow the Commissioner time to establish contact with and engage the non-resident – recognising that there could be language barriers and other unforeseen delays in this

communication. Where there is a more significant risk, it may also allow the Commissioner time to reconcile the claim with the GST return of the counter-party to a particular transaction.

A related change to section 120C of the Tax Administration Act 1994 also switches off use-of-money interest for the purposes of providing GST refunds to non-residents.

No special rules are proposed for the taxable periods of non-residents, so they will be registered on a monthly, two-monthly or six-monthly basis, as appropriate.