



WEEKLY COMMENT: FRIDAY 9 JANUARY 2015

1. It is a New Year and it is time to ask what has been happening on the GST front in the past few months. The answer is: plenty. I will be spending the next few weeks looking at these GST matters.
2. Inland Revenue has released:
 - (a) QB 14/03: *GST – Transfer of interest in a partnership*, published in *Tax Information Bulletin* Vol. 26, No. 5, June 2014, starting on page 57;
 - (b) Product Ruling – BR Prd 14/08 applied for by *Body Corporate 358851* concerning the GST treatment of payments received by unit owners from an insurance payment received by the body corporate;
 - (c) QB 14/06: *GST – Hire firm security bonds*, published in in *Tax Information Bulletin* Vol. 26, No. 7, August 2014, starting on page 131;
 - (d) Public Ruling – BR Pub 14/06: *Payments made by parents or guardians of students to State Schools – GST treatment*, published in in *Tax Information Bulletin* Vol. 26, No. 9, October 2014, starting on page 3;
 - (e) QB 14/10: *Goods and services tax – Whether a binding contract always establishes a transaction giving rise to a supply for section 9(1) purposes*, published in *Tax Information Bulletin* Vol. 26, No. 10, November 2014 starting on page 32;
 - (f) Draft QWB0121: *Goods and services tax – Lotteries, Raffles, Sweepstakes and prize competitions*, for which comments closed on 24 October 2014;
 - (g) Draft Public Ruling: *Goods and services tax – Legal services provided to non-residents relating to transactions involving land in New Zealand*, for which comments close on 30 January; and
 - (h) Draft Public Ruling: *Goods and services tax – Fishing quota – secondhand goods input tax deductions*, for which comments close on 30 January.
3. There have been a number of GST cases, notably:
 - (a) Taxation Review Authority, *TRA 007/12*, [2014] NZTRA 08, concerning whether a lessor remained liable for GST on lease payments after the lease payments had been assigned to a finance company;

- (b) Taxation Review Authority, *TRA 023/12*, [2014] NZTRA 10 on a dispute regarding whether the time of supply of newly subdivided land was before or after the GST rate increased from 12.5% to 15% on 1 October 2010;
 - (c) Taxation Review Authority, *TRA 05/12*, [2014] NZTRA 13, concerning whether advice and services provided to non-resident cruise lines, incentive houses and travel agents could be zero-rated;
 - (d) Taxation Review Authority, *TRA 008/14*, [2014] NZTRA 15, concerning whether the input tax deduction restrictions on supplies between associated persons applied to a supply of a dwelling which became subject to GST due to the changed definitions from 1 April 2011; and
 - (e) High Court, *Concepts 124 Limited v Commissioner of Inland Revenue* [2014] NZHC 2140, concerning whether a company owned by a trust was associated with a company owned by the shareholder of the trustee company.
4. In addition, a number of recent GST law changes are contained in the *Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014*. Inland Revenue's explanation of the changes is available on Inland Revenue's website and is published in *Tax Information Bulletin* Vol. 26, No. 7, August 2014, starting on page 95. I discussed these changes as proposed in the Tax Bill in *Weekly Comment* 14 February 2014 and 21 February 2014:
- (a) Changes to the dwelling definition for retirement accommodation, which applies from the 2011-12 income year onwards, subject to a saving until 31 March 2015 for tax positions already taken;
 - (b) Removing backdating of tax residence for GST purposes, from the date of Royal assent, being 30 June 2014;
 - (c) Permitting GST input tax to be claimed on directors' fees when paid to an employee of a GST-registered entity, from the date of Royal assent, being 30 June 2014;
 - (d) Including assignments and surrenders of interests in land in the GST zero-rating of land rules, from 1 April 2011;
 - (e) Including payments for the procurement of a lease in the GST zero-rating of land rules, from the date of Royal assent, being 30 June 2014;
 - (f) Permitting services on tools used for goods to be exported to be zero-rated, from the date of Royal assent, being 30 June 2014;
 - (g) Permitting zero-rating of services to non-residents despite minor presence in New Zealand, from the date of Royal assent, being 30 June 2014;
 - (h) Ensuring non-profit bodies can claim all input tax deductions except those relating to making exempt supplies, from 1 April 2011;
 - (i) Closing a loophole that apparently allowed non-residents to sell high value goods to NZ consumers by importing the goods themselves, from 1 April 2014;
 - (j) Remedying an error so as to allow a GST-registered purchaser to claim an input tax deduction if subject to the domestic reverse charge and making taxable supplies, from 1 April 2011;

- (k) Requiring a “wash-up” calculation when use of an asset changes to 100% taxable or 100% non-taxable use, from the date of Royal assent, being 30 June 2014;
 - (l) A transitional rule that restricts input tax deductions for a dwelling that become subject to GST under the changed definitions if the dwelling was acquired before the introduction of GST on 1 October 1986, for tax positions taken after 22 November 2013 (the date of introduction of the Tax Bill that resulted in the legislation);
 - (m) Allowing suppliers affected by the changed definitions of dwelling the option of including a commercial dwelling as part of their broader taxable activity, from 1 April 2011;
 - (n) Broadening the definition of “hire purchase agreement” to include any contract where a person has an option to purchase, from 1 April 2005, with a savings provision for taxpayers who had filed returns under the contrary position until the date of Royal assent, being 30 June 2014; and
 - (o) Various other remedial amendments, including requiring a recipient of land incorrectly standard-rated to correct the incorrect input tax claim, ensuring commercial lease arrangements are standard-rated unless an irregular and large payment is made, from 1 April 2011, and tidying up some aspects of the rules allowing non-residents to register for GST.
5. I will commence looking at these GST developments next week.



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