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THE GST MIXED-USE ASSETS RULES

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THE GST MIXED-USE ASSETS RULES

(1) MEANING OF MIXED-USE ASSET

The rules in **s. 20G** of the *Goods and Services Tax Act 1985* apply to a registered person who uses a **mixed-use asset** described in **s. DG 3** of the *Income Tax Act 2007* for making taxable supplies. (For the complete meaning of “an asset described in section DG 3” refer to Section I on pages 5 to 13 of the PDF attachment on *Mixed-use Assets: Income Tax Implications*.)

1. A mixed-use asset, for an income year, is an item of property:
 - (a) That a person uses in the income year (see what constitutes ‘use’ below) partly to derive income and partly for private use (as defined in **s. DG 4** of the *Income Tax Act 2007*); and
 - (b) That is not in use:
 - (i) For at least 62 days in the income year; or
 - (ii) When the asset is typically used only on working days, for at least 62 working days in the income year; and
 - (c) That, in the complete form in which a person uses it for income-earning purposes, and including any related items, things, or accessories, is 1 of the following:
 - (i) Land, including improvements to land; or
 - (ii) A ship, boat or craft used in navigation on or under water, whether or not it has a means of propulsion, that has a cost to the person of \$50,000 or more (or has a market value – the definition of market value **in s. DG 3(5)** does not apply for this - at the date of acquisition of the assets of \$50,000 or more, if the asset was not acquired at market value); or
 - (iii) An aircraft, that has a cost to the person of \$50,000 or more (or has a market value – the definition of market value **in s. DG 3(5)** does not apply for this - at the date of acquisition of the assets of \$50,000 or more, if the asset was not acquired at market value).
2. An asset is not a ‘mixed-use asset’ if:
 - (a) The use of the asset meets the following criteria:
 - (i) The private use of the asset is minor; and
 - (ii) The main use of the asset is use in a business that is not a rental or charter business; and
 - (iii) For a company or a trustee of a trust, the use of the asset places an obligation on the company or the trustee, as applicable, to pay FBT or income tax; or
 - (b) The asset is a residential property and its only income-earning use is as a long-term residential property; ~~or~~
 - ~~(c) The asset:~~
 - ~~(i) Is being used in an income year by a person (person A); and~~
 - ~~(ii) During the year, undergoes a change of use; and~~
 - ~~(iii) The only uses made of the asset for the income year are the use by person A and the use by another person from which person A derives income. (Amendment in 2014)~~
3. A person excludes a company, other than a close company and, for these purposes, a reference in the definition of a “close company” to a natural person includes a reference to a trustee.
4. What constitutes use: The use of an asset is the active use of the asset for its intended purpose.
[**s. 20G** as inserted by **s. 131(1)** and **s. DG 3** as inserted by **s. 30(1)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013* plus amendment in the *Taxation (Annual Rates, Employee Allowances, and Remedial Matters) Act 2014*]

THE GST MIXED-USE ASSETS RULES

(2) APPLICATION DATES OF GST RULES

The GST changes are broadly aligned with the income tax changes. The GST rules:

1. Apply in relation to supplies of goods other than land or improvements to land made **on or after 1 April 2014 (i.e. to supplies of boats and aircraft** and related goods); and
2. Apply **for supplies of land or improvements to land from 17 July 2013** - the date of assent of the Amendment Act – although the income tax changes took effect from the 2013-14 income year.
 - (a) Submitters on the Bill raised concerns that the proposed GST rules could result in output tax liabilities for some people who would be forced to adjust input tax claimed under the current rules.
 - (b) Officials accepted that overlap is undesirable. This is why transitional provisions were introduced when the new apportionment rules were introduced in 2011. However, rather than having another transitional provision for mixed-use assets, officials considered it would be simpler to have the proposed rules for mixed-use assets only apply to relevant goods and services acquired after the date of Royal assent of this bill.
 - (c) This means if a person purchased a bach in 2012 and has apportioned their input tax claims under the existing rules, the mixed-use asset rules would not apply to that bach, but would apply to goods and services (such as rates, insurance and furnishings) acquired after the bill is enacted.
 - (d) This will provide certainty to effected taxpayers, while still ensuring the new rules will apply appropriately.

[s. 131(2) & s. 130(7) of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013* and the *Officials' Report to the Finance and Expenditure Committee on Submissions on the Bill* (March 2013) page 75]

THE GST MIXED-USE ASSETS RULES

(3) GST RULES APPLY EVEN IF EXEMPTION OPTION APPLIES FOR INCOME TAX

1. Submitters on the Bill were of the view that the GST apportionment rules should not apply when a person takes advantage of the exemption option for income tax purposes.
2. However, officials' views were:
 - (a) It is anticipated that most people that qualify for the income tax exemption will do so because they derive significantly less than \$60,000 a year in income from the asset.
 - (b) If GST has to be charged on a supply when the turnover from the asset is less than \$60,000 per annum, the person:
 - (i) Is voluntarily registered; or
 - (ii) Has deliberately included the asset in the same structure as a larger taxable activity; or
 - (iii) Is self-employed and owns the asset in their personal name.
 - (c) In any case, their involvement with the GST system, or their inclusion of the asset in the tax base will, in many cases, have been based on a conscious decision.
 - (d) As the mixed-use asset rules are now recommended to apply only to assets acquired after the date of Royal assent of the bill, most will make this decision on the understanding that these rules will apply to them.
 - (e) GST returns are filed more regularly than income tax returns. It would be unusual to create rules that required people to return amounts of output tax for a mid-year return but then exempt the same supply once the end-of-year calculations had been performed.

*[Officials' Report to the Finance and Expenditure Committee on Submissions on the Bill (March 2013)
page 76]*

THE GST MIXED-USE ASSETS RULES

(4) GST RULES DO NOT APPLY TO A WIDELY-HELD COMPANY

New **s. 20G(8)** states that:

For the purposes of this section, a registered person does not include a widely-held company, as that term is defined in **s. YA 1** of the *Income Tax Act 2007*.

1. In **s. YA 1** of the *Income Tax Act 2007*, **widely-held company** means, at any time, a company that, at the time:
 - (a) Has no less than 25 shareholders (treating all associated shareholders as 1 person); and
 - (b) Is not a **closely-held company**.
2. In **s. YA 1** of the *Income Tax Act 2007*, **closely-held company** means, at any time, a company to which 1 of the following applies:
 - (a) At the time there are 5 or fewer persons the total of whose direct voting interests in the company is more than 50%, treating all persons associated at the time as 1 person; or
 - (b) At the time:
 - (i) A market value circumstance exists for the company; and
 - (ii) There are 5 or fewer persons the total of whose direct market value interests in the company is more than 50%, treating all persons associated at the time as 1 person.

[**s. 20G(8)** as inserted by **s. 131(1)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013* and **s. YA 1** of the *Income Tax Act 2007*.]

THE GST MIXED-USE ASSETS RULES

(5) FORMULA FOR INPUT TAX DEDUCTION

1. New **s. 20(3)(hb)** states that subject to s. 20(3), in calculating the amount of output tax payable in respect of each taxable period, there shall be deducted from the amount of output tax of a registered person attributable to the taxable period:

An amount calculated in accordance with **s. 20G** in relation to the supply of an asset during the taxable period.

2. **Section 20G** states that a registered person who uses an asset described in **s. DG 3** of the *Income Tax Act 2007* for making taxable supplies has a deduction under **s. 20(3)(hb)** of an amount calculated using the following formula:

$$\left(\begin{array}{l} \text{input tax} \\ \text{for asset} \end{array} \right) \times \frac{\text{total income-earning days}}{\text{total income-earning days} + \text{total private days}}$$

3. Note that in this apportionment formula, “expenditure” has been replaced by “input tax for asset”. It is stated in *Tax Information Bulletin Vol. 25 No. 9 (October 2013)* that “expenditure” is not a word generally used in a GST context, so the GST formula replaces “expenditure” with “input tax”.

“The replacement of expenditure for input tax ensures that GST deductions are based on what the GST Act allows. Expenditure on some assets will be subject to GST, but irrelevant for income tax purposes. The most obvious example is likely to be the main mixed-use asset itself, which may have a GST component (either explicitly or through the secondhand goods rules). It is also to clarify that input tax on durable assets (such as a holiday house) is relevant for each subsequent adjustment period in the same way as it is for the general apportionment rules. On the other hand, interest is a relevant expense for income tax but not for GST purposes.”

4. Officials confirmed that the definition of “input tax” in s. 3A of the GST Act applies to s. 20G. This includes secondhand goods input credits.

[**s. 20(3)(hb)** as inserted by **s. 130(1)** and **s. 20G(1)** as inserted by **s. 131(1)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*, *Tax Information Bulletin Vol. 25 No. 9 (October 2013)* page 21, and *Officials’ Report to the Finance and Expenditure Committee on Submissions on the Bill* (March 2013) page 78]

5. A unit of measurement of time other than days, whether relating to hours, or nights, or anything else, is to be used, in the formula and in the meaning of “total income-earning days” and “total private days”, if the use of the unit provides a fair and reasonable result.
6. The same unit must be used for both total income-earning days and total private days.

[**s. 20G(3)** as inserted by **s. 131(1)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*.]

THE GST MIXED-USE ASSETS RULES

(6) MEANING OF FORMULA TERMS: INPUT TAX FOR ASSET

Input tax for asset is:

The input tax on expenditure that the person incurs in relation to the use of an asset, other than expenditure that is:

1. Related solely to the income-earning use of the asset as described in **s. DG 7** of the *Income Tax Act 2007*, being expenditure incurred that:
 - (a) Relates solely to the use of the asset for deriving income of the person, other than exempt income; and
 - (b) Is expenditure:
 - (i) From which the person would not reasonably expect to receive a personal benefit; or
 - (ii) In the case where the person is a company, from which the company would not reasonably expect a person associated with the company to receive a personal benefit; or
 - (iii) That the person must reasonably incur to meet a regulatory requirement so that they may use the asset for deriving income and that would not have been incurred but for the requirement; and
 - (c) Is not expenditure on repairs and maintenance incurred in relation to the asset unless it is the cost of repairing damage described in **s. DG 4(4)**, which is:
 - (i) Damage caused to the asset during a particular period during which it is used to derive income; and
 - (ii) Damage that is not the result of ordinary wear and tear; and
 - (iii) Damage that is repaired by the person using the asset after the end of the period, and the use of the asset is necessary to carry out the repairs.
2. Related solely to the private use of the asset as that term is defined in **s. DG 4** of the *Income Tax Act 2007* meaning:
 - (a) The use of the asset by a natural person who is:
 - (i) The person that owns, leases, licenses, or otherwise has the asset; or
 - (ii) A person associated with the person that owns, leases, licenses, or otherwise has the asset, Whether or not:
 - (iii) The use is exclusive; or
 - (iv) An amount of income is derived in relation to the use of the asset.
 - (b) The use of an asset when income derived in relation to the use of the asset is an amount that is less than 80% of the market value amount, as defined in **s. DG 3(5)** of the *Income Tax Act 2007*.
 - (c) Not including the use of the asset referred to in s. DG 4(3) to DG 4(5) which is:
 - (i) The asset being used in the ordinary course of the person's business [s. DG 4(3)]; or
 - (ii) The asset being necessarily used after income-earning use so as to repair damage not the result of ordinary wear and tear caused during income-earning use [s. DG 4(4)]; or
 - (iii) The asset being used before or after a period of income-earning use to necessarily relocate the asset for income-earning purposes and the income derived includes the cost of relocation [s. DG 4(5)].
 - (d) Note that the exclusions from private use in s. DG 4(3) to DG 4(5) explained in (c) above do not apply if the person **derives an amount of exempt income** in relation to the use of the asset.

[**s. 20G(2)(a)** as inserted by **s. 131(1)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*.]

THE GST MIXED-USE ASSETS RULES

(7) MEANING OF FORMULA TERMS: TOTAL INCOME-EARNING DAYS

Total income-earning days:

1. Is the total number of days in the period on which the person supplies the asset for use and derives a consideration for the supply, whether at, above, or below market value as that term is defined in **s. DG 3(5)** of the *Income Tax Act 2007*, meaning the price at which the asset is provided for use at a particular time or for a particular season:
 - (a) In the open market; and
 - (b) Freely offered; and
 - (c) Made on ordinary terms; and
 - (d) To a member of the public at arm's length.
2. Includes any days on which the asset is used as described in s. DG 4(3) to DG 4(5) which is:
 - (a) The asset being used in the ordinary course of the person's business [s. DG 4(3)]; or
 - (b) The asset being necessarily used after income-earning use so as to repair damage not the result of ordinary wear and tear caused during income-earning use [s. DG 4(4)]; or
 - (c) The asset being used before or after a period of income-earning use to necessarily relocate the asset to earn income and the income derived includes the relocation cost [s. DG 4(5)].

[Note, however, that this does not include days when the asset is used as described in s. DG 4(3) to DG 4(5) when the person **derives an amount of exempt income** in relation to use of the asset.]
3. Includes any days on which the asset has become unavailable for use because another person who had earlier reserved the asset for their own use, subsequently did not take advantage of that reservation.
4. Includes any days on which a fringe benefit liability arises.
5. It was stated in the Officials' Report that:

"Officials agree that it is not optimal to have output tax charged on a supply while simultaneously denying input tax for that supply. ... On balance, officials consider that, for the purposes of the GST mixed-use asset rules, any day (or other period) where the asset in question is supplied for consideration should be treated as a business day. In practice, this would mean:

 - A period when the asset is leased to an associated person should be subject to the rules that treat supplies between associated persons as taking place at market value. This would mean the owner would have to return output tax on a market value rate even if some lesser consideration (or no consideration) was paid.
 - On a day the asset is leased to a non-associate for less than market value (but more than zero), the owner should return output tax on that lesser value. Although this allows supplies to be made to people for lower rates while still claiming input deductions, this is an existing feature of the GST system that registered persons and Inland Revenue will be familiar with."
6. It is noted in *Tax Information Bulletin Vol. 25 No. 9 (October 2013)* on page 21 that:

"It is important to note that, if the owner supplies the asset to an associated person, s. 10(3) will generally require them to treat the supply as being made at market value. This will require output tax to be paid on the supply, but it will also be treated as "income-earning" for the purposes of calculating entitlement to input tax deductions. Similarly, if the supply is a fringe benefit, s. 211 will apply to deem consideration to have been received – this will also be an income-earning day."

[**s. 20G(2)(b)** inserted by **s. 131(1)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*, *Tax Information Bulletin Vol. 25 No. 9 (October 2013)* p. 21, and *Officials' Report to the Finance and Expenditure Committee on Submissions on the Bill (March 2013)* page 78]

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(8) MEANING OF FORMULA TERMS: TOTAL PRIVATE DAYS

Total private days is The total number of days in the period:

1. On which the asset is in active use as described in **s. DG 3(7)** of the *Income Tax Act 2007* – i.e. active use for its intended purpose; and
2. That are not income-earning days as described in **s. 20G(2)(b)** – see **(7)** above.

[**s. 20G(2)(c)** inserted by **s. 131(1)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*]

THE GST MIXED-USE ASSETS RULES

(9) RECIPIENT'S OBLIGATIONS REGARDING INPUT TAX AND ADJUSTMENTS

Under new s. 20(3JB), for a supply of a mixed-use asset to which **s. 20G** applies, the recipient must:

(a) On acquisition:

- (i) Identify the nominal amount of tax that would be chargeable on the value of the supply, as if the value were equal to the consideration charged for the supply, at the rate set out in s. 8(1); and
- (ii) Determine the extent to which they intend to use the goods, as described in **s. 20(3G)** – which states that in determining the extent to which goods or services are used for making taxable supplies, a person must estimate at the time of acquisition how they intend to use the goods or services, choosing a determination method that provides a fair and reasonable result; the determination is expressed as a percentage of the total use: the **percentage intended use** as defined in **s. 21G(1)(b)**; and
- (iii) Account for input tax for the amount calculated under **s. 20(3G)** and **s. 20(3H)** – the extent to which a deduction for input tax is allowed is calculated using the formula:
(full input tax deduction) x (percentage intended use); and

(b) Make adjustments under **s. 20G(4) and (5)** in relation to the taxable supply referred to in paragraph (a): These are the annual adjustments required under the apportionment rules, but using the formula in s. 20G to determine the input tax entitlement.

Note:

1. Paragraph (a)(i) of this **section 20(3JB)** presumably applies to a zero-rated supply of a mixed-use asset to which **s. 20G** applies: the wording in paragraph (a)(i) is identical to the wording in **s. 20(3)(a)(i)**;
2. The focus is on accounting for input tax; so s. 20(3J) applies for zero-rated supplies of mixed-use assets to determine accounting for output tax.
3. For zero-rated supplies of mixed-use assets post-acquisition adjustments must be based on the formula in s. 20G: s. 20(3)(b) has been amended to include a specific reference to s. 20G.

[**s. 20(3)** & **s. 20(3JB)** inserted by **s. 130(4)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*]

THE GST MIXED-USE ASSETS RULES

(10) MIXED-USE ASSET INPUT TAX CLAIM AT ACQUISITION

For an acquisition that is not zero-rated under s. 11(1)(mb), the “standard” apportionment rules in s. 20(3G) and s. 20(3H) (and s. 20(3I) in which the formula terms in s. 20(3H) are explained) will apply pursuant to s. 20(3JB)(a)(ii) & (iii):

- (a) The person must determine the extent to which they intend to use the goods, as described in s. 20(3G) – which states that in determining the extent to which goods or services are used for making taxable supplies, a person must estimate at the time of acquisition how they intend to use the goods or services, choosing a determination method that provides a fair and reasonable result; and
- (b) The determination must, also under s. 20(3G), be expressed as a percentage of the total use; that percentage then becomes the “percentage intended use” under s. 21G(1)(b); and
- (c) The input tax deduction must be determined based on the percentage intended use using the formula in s. 20(3H):

(Full input tax deduction) x (percentage intended use)
- (d) Full input tax deduction is, under s. 20(3I), the total amount of input tax on the supply.

[s. 20(3JB)(a) as inserted by s. 130(4) and s. 21G as amended by s. 134 of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*]

Excerpt from Tax Information Bulletin Vol. 25 No. 9 (October 2013) page 22:

Link with apportionment rules

As mixed-use assets are used partly for private and partly for business purposes, the general apportionment rules in the GST Act should also apply to expenditure in relation to these assets. To facilitate this, the definitions used in the apportionment rules: “percentage intended use”, “potential actual use” and “percentage difference” in section 21G have been extended to apply to the mixed-use asset formula in section 20G.

The effect of this change is that a GST-registered recipient of a supply in respect of their mixed-use assets will need to perform an initial estimate of their percentage intended use of the supply. This estimate should be done based on the result the person thinks the formula in section 20G would produce. In calculating this, an asset owner will need to be aware that the section does not apply to supplies used solely for income earning days or solely for private days. If a supply is used solely for income earning days, all input tax is deductible and no apportionment is necessary. Conversely, if a supply is used solely for private days, no input tax is deductible.

THE GST MIXED-USE ASSETS RULES

(11) ZERO-RATED ACQUISITION OF A MIXED-USE ASSET THAT INCLUDES LAND

The input tax deduction upon acquisition, for a zero-rated supply of a mixed-use asset that includes land to which **s. 20G** applies, must be determined under **s. 20(3JB)(a)(i)** (the wording in that section is identical to the wording in **s. 20(3)(a)(i)**):

- (i) The purchaser must identify the nominal amount of tax that would be chargeable on the value of the supply, as if the value were equal to the consideration charged for the supply, at the rate set out in **s. 8(1)** – this is referred to in **s. 20(3)(a)(i)** as the **nominal GST component**:

The nominal amount of tax on the value of the supply, as if the value were equal to the consideration charged for the supply will be 15% multiplied by the acquisition price (based on **Example 4** on page 35 of *Tax Information Bulletin Vol. 23 No. 1 (February 2011)* in which **s. 20(3)** is explained;

- (ii) The purchaser must then determine the extent to which they intend to use the goods, as described in **s. 20(3G)** – which states that in determining the extent to which goods or services are used for making taxable supplies, a person must estimate at the time of acquisition how they intend to use the goods or services, choosing a determination method that provides a fair and reasonable result; the determination is expressed as a percentage of the total use: the **percentage intended use** as defined in **s. 21G(1)(b)**:

Note that the definition of “percentage intended use” in **s. 21G** has been extended to apply to the mixed-use formula in **s. 20G**: therefore, the percentage intended use will be based on the result that the formula in **s. 20G** would produce;

- (iii) The purchaser must then account for output tax under **s. 20(4)** for the proportion of the nominal GST component for any non-taxable use of the goods and services, under **s. 20(3)(a)(iii)**.

Note:

1. In the Officials’ Report on the Bill it is noted on page 78 that: “Officials agree that the relationship between the proposed section 20G and section 20(3J) should be clarified so that the output tax calculated under that section is referable to the inputs that would be able to be claimed under section 20G”.
2. Unfortunately, there has been no clarification other than the insertion of paragraph (a)(i) in **s. 20(3JB)**, which appears to require input tax to be calculated as the nominal GST component in **s. 20(3)(a)(i)**. (Section **20(3JB)(a)(iii)** refers to “account for input tax”, and not “account for output tax” as in **s. 20(3)(a)(iii)**.)

[**s. 20(3)**, **s. 20(3JB)** as inserted by **s. 130(4)** and **s. 21G** as amended by **s. 134** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*, *Tax Information Bulletin Vol. 23 No. 1 (February 2011)* p. 35, and *Officials’ Report to the Finance and Expenditure Committee on Submissions on the Bill* (March 2013) page 78]

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(12) POST-ACQUISITION ADJUSTMENTS

1. Post-acquisition adjustments under **s. 20G** are required only in relation to expenditure that is not solely income earning or solely private.
2. Section **20(3JB)(b)** requires the adjustments under **s. 20G(4) and (5)** to be made.
3. Section **20(3J)(b)** requires post-acquisition adjustments under **s. 20G** for the taxable supply of a zero-rated mixed-use asset under **s. 20(3J)(a)**.
4. The general rules relating to the first and subsequent adjustment periods in **s. 21G(2)** and the number of adjustment periods in **s. 21G(4)** apply for the purposes of **s. 20G**.
5. Under **s. 20G(4)**, the person must ascertain at the end of an adjustment period whether an adjustment is required to be made for any percentage difference in a supply of the asset for the period in relation to the actual use of the asset for making taxable supplies.
6. Under **s. 20G(5)**, if an adjustment is required, the person must, at the end of the adjustment period:
 - (i) Identify the percentage actual use of the asset in accordance with the formula in **s. 20G(1)** – **see page 3** - for making taxable supplies; and
 - (ii) Compare the percentage actual use with percentage intended use as described in **s. 20(3JB)** – **see page 5** - or previous actual use, as applicable; and
 - (iii) If a percentage difference arises, make an adjustment for any percentage difference for the adjustment period, applying **s. 21D(3)** to the resulting amount.
 - (iv) Under **s. 21D(3)**, there will be either an additional input tax deduction, or an output tax liability:
 - a. If the percentage difference is positive – i.e. the actual use exceeds the intended use or previous actual use, claim an additional deduction under **s. 20(3)(e)**; or
 - b. If the percentage difference is negative – i.e. the actual use is less than the intended use or previous actual use, pay output tax equal to the difference under **s. 21A**.

[**s. 20(3J)(b)** as amended by **s. 130(3)**, **s. 20(3JB)(b)** as inserted by **s. 130(4)**, **s. 20G(4) & (5)** as inserted by **s. 131(1)** and **s. 21G** as amended by **s. 134** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*.]

Excerpt from Tax Information Bulletin Vol. 25 No. 9 (October 2013) page 22:

As with the general apportionment rules and the formula used for income tax, section 20G requires a registered person to perform annual calculations to determine the level to which they can claim input tax deductions. As with the general apportionment rules, section 20G requires the registered person to pay any output tax or allow them to claim input tax on any positive or negative adjustment produced by the formula.

THE GST MIXED-USE ASSETS RULES

(13) ADJUSTMENT CONCESSION AND APPLICATION OF THE ADJUSTMENT EXEMPTIONS

1. Under **s. 20G(6)**, for the purposes of **s. 20G(5)**, all expenditure incurred in relation to the use of the asset is aggregated and included in the relevant adjustment unless **s. 21(2)(c) or (d)** applies to the aggregated amount.

Excerpt from Tax Information Bulletin Vol. 25 No. 9 (October 2013) page 22:

Filing

One issue specific to GST is that GST is not generally calculated on an annual basis, so GST-registered owners of mixed-use assets will be required to file returns on a monthly, two-monthly or six-monthly basis. Although the general apportionment rules provide for annual adjustments, section 20G sets put specific rules for the calculation and what to do for intervening taxable periods.

Section 20G requires a person to perform the calculation at the end of an adjustment period, as defined. This is usually an annual period. However, as stated above, the registered person must estimate their taxable use of a supply in the intervening periods and calculate their actual taxable use at the end of each adjustment period. This wash-up calculation will determine the person's true tax position for each of the taxable periods within the adjustment period.

To ease the compliance burden on registered persons, the rules require input tax in the adjustment period to be aggregated. Only if the estimated deductions are 10 percentage points or greater than the actual taxable use (or less than 10 percentage points but more than \$1,000) is a wash-up necessary (see section 20G(6)).

An alternative approach, which ensures greater accuracy but that might reduce cash-flow, would be for the registered person to delay claiming input deductions in the intervening periods and instead claim their annual entitlement at the end of each adjustment period when the calculation is performed.

2. The de minimus exemptions in **s. 21(2)(c) and (d)** apply to the aggregated amount: a person is not required to make an adjustment if:
 - The difference between the percentage intended use on acquisition and the percentage actual use for the relevant adjustment period is less than 10 percentage points, but this paragraph does not apply if the adjustment amounts to more than \$1,000:
 - The difference between the previous actual use calculated for the most recent adjustment period in which an adjustment was made and the percentage actual use for the relevant adjustment period is less than 10 percentage points, but this paragraph does not apply if the adjustment amounts to more than \$1,000.

[**s. 20G(6)** inserted by **s. 131(1)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013* and **s. 21(2)(c) and (d)**]

THE GST MIXED-USE ASSETS RULES

(14) DISPOSAL OF THE MIXED-USE ASSET

1. The normal disposal rules in **s. 21F** apply upon the disposal of an asset subject to **s. 20G**.
2. Section **20G(7)** states that **s. 8** and **s. 21F** apply to the disposal of the asset, treating the disposal as in the course or furtherance of a taxable activity.
3. Refer to the separate PDF attachment *The GST Apportionment Rules*, **pages 19 – 20** for the details. In summary:
 - (a) If the goods or services were not acquired as part of a supply that was zero-rated under s. 11(1)(mb), a final input tax adjustment is made to compensate for the proportion of the output tax on disposal that corresponds to the input tax not claimed as a deduction; and
 - (b) If the goods or services were acquired as part of a supply that was zero-rated under s. 11(1)(mb), a final input tax adjustment is made to compensate for the proportion of the output tax on disposal that corresponds to the input tax not claimed based on the previous actual use of the asset in the adjustment period before the period in which the disposal occurs.

4. **Excerpt from Tax Information Bulletin Vol. 25 No. 9 (October 2013) page 22:**

Disposal

Section 20G(7) provides that the disposal of the relevant asset by a registered person will be a taxable supply and section 21F will apply to it. This means that output tax will be payable on the disposal and a registered person will be able to apply the section 21F formula to claim any input tax not previously claimed.

[**s. 20G(7)** inserted by **s. 131(1)** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*]

THE GST MIXED-USE ASSETS RULES

(15) PRE-REGISTRATION ACQUISITIONS

Where goods or services are acquired pre-registration, and the goods or services are used for making taxable supplies after registration, the person, or partnership, as applicable, may make an adjustment under **s. 20G**, treating as the first adjustment period, the period that:

- (a) Starts on the date of the acquisition of the goods or services; and
- (b) Ends on the first balance date that falls after the time the goods or services start being used to make taxable supplies.

[**s. 21B(2)** as inserted by **s. 132** of the *Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Act 2013*]

THE GST MIXED-USE ASSETS RULES

(16) INLAND REVENUE EXAMPLE OF GST ADJUSTMENT FOR MIXED-USE ASSETS

When the rules come into effect

This adjustment applies:

- For holiday homes from 17 July 2013
- For boats and aircraft from 1 April 2014.

If an apportionment has already been made under existing rules, the new rules will only apply to goods and services (rates, insurance etc) from the above dates.

How the calculation is worked out

The calculation is based on the income-earning days and private use days of the asset using this formula:

$$\text{Amount of input tax} = \frac{\text{income-earning days}}{\text{income-earning days} + \text{private days}}$$

The formula definitions:

- Input tax:**
- Is the total input tax for the mixed-use expenses;
 - Excludes input tax on expenditure relating solely to income-earning and private use.
- Income-earning days:**
- Is the total number of days when rent or a fee is paid for the use of the asset, regardless of the amount paid. Includes family, non-associated persons and any income-earning use spent repairing or relocating the asset.
- Private days:**
- Is the total days the assets is used with no amount of rent or fee paid.

Using alternatives to "days"

You can use other measures in the apportionment formula if they reflect the time the asset is used more accurately. For example:

- Flying hours for an aircraft
- Nights for a holiday home.

You calculate the adjustment for an adjustment period to get the amount of GST input tax to return.

Note

The definition of "income-earning days" differs from the days used to calculate the amount of expense allowed as a tax deduction. For GST purposes it includes all days any consideration (rent) is received irrespective of the percentage of market rate paid.

THE GST MIXED-USE ASSETS RULES

(16) INLAND REVENUE EXAMPLE OF GST ADJUSTMENT FOR MIXED-USE ASSETS (continued)

Example: Regan purchases a charter boat on 1 April 2014 for \$450,000 which is used both to earn income and for private use. He accounts for GST input tax for the year as follows:

Fully deductible expenses

Annual Maritime NZ survey fees:	\$700
Charter advertising:	\$400
Food/drinks (for charter guests only):	\$500

Not deductible

\$250 for family fishing licenses is a private expense, so no GST input tax is claimed.

Apportioned (mixed-use) expenses

There are apportioned (mixed-use) expenses that relate to both income-earning and private use.

Mooring fees:	\$2,000
Fuel:	\$1,200
Insurance:	\$2,450
General repairs:	\$300
Total mixed-use expenses:	\$5,950

When Regan acquired the boat he estimated that the taxable use would be 50%. He claimed input tax on the mixed expenses of 29,735.86 (credit) as follows:

Expense	Cost	GST value	50% claimed
Purchase of boat	\$450,000	\$58,695.65	\$29,347.82
Expenses	\$5,950	\$776.09	\$388.04
Total input tax		\$59,471.74	\$29,735.86

During the year the boat was used:

Income-earning days:	Days fully chartered to the public:	102
	Days chartered at 50% to Regan's fishing club:	20
	Total income-earning days:	122
Private days:	Days used by Regan's family without payment:	30
	Income-earning + private days	152

The input tax calculation is:

$$59,471.74 \times \frac{122}{152} = \$47,730.90 \text{ input tax}$$

Regan claimed input tax of \$29,735.86 during the year. He is entitled to claim a further amount \$17,998.04 (credit) as an adjustment for input tax in his final GST return of the year. The calculation is:

$$\$47,733.90 - \$29,735.86 = \$17,998.04$$