

August 2010**Inside this issue:**GST Rate Change Date
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GST Rate Change Date Looming Closer

It is now less than 2 months until 1 October 2010 where the GST rate will increase from 12.5% to 15%. There are a number of issues for you to be considering prior to this date to ensure that your systems can handle the transition. The Government released a special report on 10 August 2010 which sets out some proposals to help businesses through the transition. So now is the time to be considering how these may impact on you and your clients. We have outlined below some of these proposals as well as illustrating how the rate change may impact your GST return filing.

- Whether the rate of 12.5% or 15% applies will depend on the “time of supply” of goods and services. How you account for GST, i.e. payment, invoice or hybrid basis, is irrelevant in determining the applicable rate of GST
- Under the general time of supply (TOS) rule, TOS is triggered at the earlier of an invoice being “issued” and any payment being received in respect of that supply. Practical issues can arise where work is performed or goods are provided in September, an invoice is dated September, but the invoice is “issued” in October. In this case the applicable rate of GST would be 15% even though the goods/services are supplied in September with an invoice dated September. It is likely the IRD will not police this during the transitional period. However, to safeguard taxpayers the Government proposes an amendment. Where goods or services are provided prior to 1 October, the invoice is dated 30 September or earlier and payment is due within 60 days, GST of 12.5% will apply provided the invoice is issued by **11 October 2010**. Essentially you have until the 11th of October 2010 to issue pre 1 October invoices for goods/services provided.
- We have had many questions relating to land acquisitions/sales where a contract has been entered into but settlement will not occur until after balance date. For land transactions, the general TOS rule is applied. TOS for land transactions will generally be when a payment is applied to the benefit of the vendor. This is generally when the Sale & Purchase Agreement goes unconditional and any stakeholder arrangement ceases. If TOS is triggered prior to 1 October then 12.5% will apply. Payments basis taxpayers will be required to make an adjustment in their September GST return where settlement occurs after 1 October. If however a contract has been entered into prior to 1 October but is conditional or no payment has been made to the vendor, the applicable GST rate will be 15%. The vendor may seek to increase the price to cover the increase in GST. The vendor is entitled to do this per section 78 of the GST Act 1985 provided the agreement does not specifically prohibit such an increase as a result of the rate change. You should therefore be reviewing all such contracts to ensure that any issues are dealt with prior to the rate change.

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- Although the rate of GST is determined by the TOS rules, there will be adjustments that arise depending on whether you are on an invoice or payments basis. For those on a payments basis, an adjustment is required for all debtors/creditors as at 30 September 2010. This will be made in the September GST return. TOS may have been triggered at 12.5% but if you are on a payments basis, transactions will be captured at the 15% rate when payments are made or received. Thus as at 30 September an adjustment is made by applying the following formula:

Creditors less Debtors/51.75

- For example, assume your creditors are \$500,000 and your debtors are \$650,000 as at 30 September 2010. In your September GST return a credit adjustment of \$2,898.55 will be recognised (being \$500,000 less \$650,000/51.75). This can be refunded or offset against other liabilities. When payments are eventually made/received, these will be accounted for at 15% post 1 October. As an adjustment has already been made in September nothing further is required. The IRD has developed a calculation sheet to assist with this (GST105).
- If you are on an invoice basis for accounting then no such adjustment is required. However, some issues may arise when dealing with special TOS rule transactions, e.g. operating leases, insurance contracts, and secondhand goods. Some of these issues are outlined below.
- If the GST return period spans 30 September, for example you may have a two month return period ending 31 October, the IRD will issue you with a special transitional return. This will deal with transactions up to 30 September on page one and then transactions from 1 October on page 2.
- Special TOS rules apply to successive supplies such as agreements to hire, layby sales, construction contracts, etc. We have outlined some of the issues below but should you have any queries please contact your nsaTax advisor to discuss.
- Where you have successive supplies such as agreements to hire, e.g. operating leases and insurance contracts where premiums or lease payments are paid monthly, the applicable rate of GST is determined at the time payment is due or received, whichever is earlier. The issue of an invoice is irrelevant. Thus for payments due or received from 1 October, the rate of 15% will apply. This may cause complexities as suppliers may need to look to increase pricing and alter documentation. The Government proposes certain relief provisions for these types of supplies.
- Where a successive supply is made, the Government will allow the supplier the option of using the general TOS rule. If an invoice has been issued by 11 October (dated 30 September or earlier), the supplier can account for GST at 12.5% in their September return. This is provided they notify the recipient that they can only claim GST at the rate of 12.5%. In addition, for annual contracts entered into prior to 1 October, a supplier can elect to continue to use the

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rate of 12.5% provided they account for the remaining GST in the September return and notify recipients that they can only claim back GST at the 12.5% rate.

- For Layby Sales, TOS is triggered when title passes. If title passes after 1 October, GST of 15% would apply. For contracts already entered into it may not be possible for retailers to pass on the increase. The Government has therefore announced that for binding contracts in place prior to 20 May 2010, GST can be accounted for at 12.5% on all payments received up to 1 October. This is provided the GST is accounted for in the September return on those payments. For payments after 1 October, GST at 15% will apply. Thus for these layby sales, GST can be based on the payments as opposed to when title is passed.
- The Government has announced that replacement invoices can be issued for supplies made prior to 1 October. Generally only one invoice can be issued for a supply and any alteration in price requires a debit or credit note. For example where a lease agreement has been entered into prior to 1 October and an invoice has been issued upfront. If the supplier decides to increase the remaining payments to account for GST at 15%, a replacement invoice can be issued as opposed to a debit note.

With many of the proposals suppliers will be required to account for GST in the September return period to retain the 12.5% rate. Suppliers will need to consider whether they have the cash flow as GST output tax will be payable in October but payments in relation to supplies made may not be received until a later date, e.g. operating lease payments.

There are many issues to consider with the rate change and the above does not cover every issue that may arise for you and your clients. Consequently if you should have any queries please do not hesitate to contact one of our advisors to discuss further.

Lisa Murphy