

GST on accommodation and transportation services supplied through online marketplaces

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This special report provides information that explains the GST rules for marketplace operators involved in the supply of ride-sharing/ride-hailing and delivery services for food and beverages, as well as for marketplace operators and listing intermediaries involved in the supply of accommodation services. This special report has been updated following legislative changes that passed into law in March 2024.

Table of Contents

Introduction.....	3
Key features.....	4
Scope of the GST rules for listed services.....	4
Flat-rate credit scheme.....	4
Opting out of the marketplace rules.....	5
Listing intermediaries.....	5
Consequential amendments.....	6
Background	6
Effective date	7
Key terms	8
Detailed analysis	10
Scope of the GST rules for listed services.....	10
Flat-rate credit	26
Opting out of marketplace rules.....	38
Listing intermediaries.....	44
Transitional rule for taxable accommodation	54
Consequential amendments.....	61
About this document.....	68

Introduction

This special report provides information on changes to apply goods and services tax (GST) to “listed services” supplied through electronic marketplaces. The Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 was enacted on 31 March 2023. The amendments give effect to changes that require operators of electronic marketplaces to collect GST on supplies of “listed services” that include:

- ride-sharing and ride-hailing
- delivery services for beverages, food, or both, and
- taxable accommodation,

that are performed, provided or received in New Zealand.

The changes take effect on 1 April 2024 unless otherwise stated.

Following enactment of the GST rules for listed services in March 2023, additional changes have been made to ensure the rules are workable and consistent with the policy intent. These changes were included in the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024, which was enacted on 29 March 2024, and include:

- rules to address circumstances when a person, referred to as a “listing intermediary”, is interposed between an underlying supplier of taxable accommodation and the operator of an electronic marketplace
- adjustment rules for the flat-rate credit that will enable marketplace operators and listing intermediaries to self-correct errors related to the calculation of the flat-rate credit
- ensuring the value of the flat-rate credit is not reduced when marketplace operators provide a discount for listed services
- only allowing non-individual persons with sales greater than \$500,000 in a 12-month period to choose to remain responsible for their own GST obligations
- a clarification to ensure that marketplace operators and listing intermediaries are able to recover their output tax liabilities on supplies they are treated as making from underlying suppliers without this giving rise to additional GST liabilities
- a transitional rule to ensure that marketplace operators and listing intermediaries do not have to account for GST on contracts for taxable accommodation entered into before 1 April 2024, and

- other minor and technical amendments to ensure the legislation reflects the policy intent.

These changes are explained in this report.

For general enquiries not covered by the guidance included in this special report, email: platformeconomy@ird.govt.nz.

All legislative references are to the Goods and Services Tax Act 1985 (GST Act) unless otherwise stated.

Key features

Scope of the GST rules for listed services

From 1 April 2024, the supply of “listed services” made through an electronic marketplace will be subject to GST whether the person providing the services through the electronic marketplace is registered for GST or not. The new rules will require operators of electronic marketplaces to collect and return GST on supplies of listed services they are treated as making. Marketplace operators will only be required to collect and return GST on supplies of listed services if their total supplies in New Zealand including the listed services exceed, or are expected to exceed, the GST registration threshold of NZ\$60,000 in a 12-month period.

The following services, which are further explained later in this report, are included within the scope of “listed services”:

- accommodation other than accommodation that would be exempt under the GST Act
- ride-sharing and ride-hailing services
- delivery services for food, beverages, or both,

provided that these services are performed, provided or received in New Zealand.

The new rules apply to marketplace operators regardless of their residence for GST purposes. This means that resident and non-resident marketplace operators need to consider GST registration if they enable the supply of listed services.

Flat-rate credit scheme

A flat-rate credit scheme that requires marketplace operators to pass on a proportion of the GST collected on supplies of listed services to underlying suppliers that are not registered for GST, has been introduced. The flat-rate credit scheme provides a “credit” to underlying suppliers who are not required to be registered for GST because their total supplies are

below the GST registration threshold. This is intended to recognise the GST incurred by unregistered underlying suppliers on goods and services used to make supplies of listed services.

Standard GST registration is available for underlying suppliers that do not have to be registered for GST and do not want to apply the flat-rate credit scheme. The flat-rate credit was determined with reference to the average amount of input tax that GST-registered suppliers of listed services recovered. It is not intended to recognise GST on capital assets such as land or vehicles used to make supplies of listed services. This is because a person that supplies listed services, and who is not registered for GST, would not account for output tax on the disposal of such assets.

For underlying suppliers that are registered for GST, they will continue accounting for input tax on their expenses in their own GST returns. They will no longer be responsible for accounting for GST output tax on supplies of listed services as this will be done by marketplace operators unless the underlying supplier has opted out of the marketplace rules.

Opting out of the marketplace rules

New provisions enable certain underlying suppliers to opt out of the marketplace rules. The effect of opting out of the marketplace rules means that underlying suppliers, instead of marketplace operators, would continue to be responsible for accounting for GST on supplies of listed services.

Some GST-registered underlying suppliers with larger-scale operations can opt out of marketplace rules provided they meet certain criteria. Agreement will be required between marketplace operators and underlying suppliers who choose to opt out of the rules in some circumstances. In other circumstances, underlying suppliers with more significant operations will be able to unilaterally opt out of the marketplace rules by notifying the marketplace operator. If an underlying supplier opts out of the marketplace rules, they choose to remain responsible for their own GST obligations in respect of supplies they make through electronic marketplaces.

The provisions enabling underlying suppliers to opt out of the rules came into force on 1 April 2023 to enable these rules to be used ahead of the other rules applying from 1 April 2024.

Listing intermediaries

Legislative changes made in March 2024 introduce new rules for “listing intermediaries” to supplement the electronic marketplace rules to ensure that the rules for listed services

(particularly the flat-rate credit scheme for unregistered underlying suppliers) work effectively.

In situations where a property manager or agent for an underlying supplier of taxable accommodation enters into an agreement with an operator of an electronic marketplace to list accommodation on behalf of underlying suppliers, the electronic marketplace rules may not work appropriately on their own because the marketplace operator might not have any information about the underlying supplier that is necessary for administering the flat-rate credit scheme. In this situation, the property manager or agent (referred to as a “listing intermediary”) will be responsible for all requirements related to the flat-rate credit (instead of those obligations being on the marketplace operator).

The listing intermediary will also be treated as making a zero-rated supply of the accommodation provided by the underlying supplier to the marketplace operator, unless they are able to agree with the marketplace operator that they are liable for GST at the 15% rate on supplies of taxable accommodation. Certain conditions apply to determine whether the listing intermediary is eligible to enter into such an agreement.

Consequential amendments

The marketplace rules for listed services are based on existing rules in the GST Act that apply to marketplace operators. These rules have been present in the GST Act since 1 October 2016 when the rules for GST on remote services were introduced. They were expanded on 1 December 2019 with the introduction of GST on distantly taxable goods.

Amendments have been made to the rules for electronic marketplaces, where appropriate, to ensure that those same rules continue to apply to marketplace operators that are treated as suppliers of listed services.

Background

GST is a broad-based consumption tax that applies to the supply of most goods and services made in New Zealand. To ensure GST remains simple, fair, and efficient, a fundamental principle of New Zealand’s GST system is that GST should apply to all consumption that occurs in New Zealand.

GST came into force in New Zealand in October 1986 before the introduction of e-commerce and the growth and popularity of the internet. Since then, the scope of GST has been expanded to apply in circumstances not originally envisaged when GST was introduced.

Changes were made in 2016 to ensure that GST applied to cross-border supplies of “remote services”. This included remote services that are supplied through electronic marketplaces such as app sales through app stores.

Changes were also made in 2019 to ensure that GST applied to supplies of certain imported goods. These changes included requirements that operators of electronic marketplaces – instead of the seller on the marketplace – would become liable for collecting and returning GST on goods supplied through the marketplace to a consumer providing a delivery address in New Zealand.

These changes were both premised on the principles of maintaining a broad-based GST system, under which GST applied to the broadest possible range of goods and services in New Zealand, and of promoting and protecting the sustainability of the GST base. The application of GST to these cross-border supplies of goods and services also removed distortions that arose when GST was typically being collected by those that provided the same goods and services within New Zealand.

These prior reforms followed consideration and consultation by the Organisation for Economic Co-operation and Development (OECD). In April 2021, the OECD published its report *The Impact of the Growth of the Sharing and Gig Economy on VAT/GST Policy and Administration*. This report outlined a range of options that jurisdictions could implement depending on their overarching policy objectives with its VAT/GST system. One option considered in this report is introducing rules requiring platform operators to collect and return GST on supplies of goods and services they enable sellers to make under a “deemed supplier” or “full liability regime” model. The Government enacted rules broadly aligned with this option as part of the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 and following the Government discussion document [The role of digital platforms in the taxation of the gig and sharing economy](#), which was published in March 2022.

Effective date

The amendments incorporating “listed services” into the GST Act generally take effect on 1 April 2024.

The amendments enabling underlying suppliers to opt out of the marketplace rules, provided criteria are met, have effect from 1 April 2023, being the day after the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Act 2023 received the Royal assent (31 March 2023). This includes the amendments enabling the Commissioner of

Inland Revenue (the Commissioner) to issue determinations that set out the criteria a person must meet before they can enter an opt-out agreement with a marketplace operator.

Transitional rule for taxable accommodation

In March 2024, the Government introduced a transitional rule that ensures listing intermediaries and operators of electronic marketplaces do not have to account for GST on contracts for taxable accommodation entered into before 1 April 2024, provided certain conditions are met. The transitional rule will apply where the relevant supplies under those contracts are made on or after 1 April 2024. For more information see "[Transitional rule for taxable accommodation](#)" on page 54.

Key terms

There are several terms that have a specific meaning under these new rules.

Listed services – The services listed in section 8C(2) of the GST Act. The following services are included within the scope of "listed services":

- accommodation other than accommodation that would be GST-exempt
- ride-sharing/ride-hailing services
- delivery services for food, beverages, or both,

where these services are performed, provided or received in New Zealand.

Further information about the scope of "listed services" is included on pages 9 to 13 of this special report.

Underlying supplier – The person who would be the supplier of taxable accommodation, ride-sharing/ride-hailing, or food or beverage delivery services for GST purposes (and would therefore be responsible for returning GST on the services to Inland Revenue) in the absence of a specific provision of the GST Act deeming another person (such as the operator of an electronic marketplace) to be the supplier of those services. Generally, this refers to an accommodation host, driver, or deliverer who makes the supply of services to the consumer, using an electronic marketplace to find buyers for their services.

Accommodation host or host – The person who would be the supplier of accommodation services, ignoring the effect of the marketplace rules that treat the operator of the marketplace as the supplier. This will generally be the owner of the land or property that is used to provide accommodation but could also include the person responsible for the operation of a hotel or motel, for example.

Electronic marketplace – Defined in section 2(1) as a marketplace that is operated by electronic means through which a person (the underlying supplier) makes a supply of goods, or of remote services by electronic means, or of listed services, through another person (the operator of the marketplace) to a third person (the recipient). It includes a website, internet portal, gateway, store, distribution platform, or other similar marketplace but it does not include a marketplace that solely processes payments.

Marketplace rules – Rules that require operators of electronic marketplaces to account for GST on supplies they are treated as making. These rules apply where an underlying supplier provides listed services through an electronic marketplace to another person (the recipient). Instead of the underlying supplier accounting for GST on the supply of listed services, it is the marketplace operator that accounts for GST on the supply. The supplier, if registered for GST, will be treated as making a zero-rated supply to the marketplace operator and would therefore account for GST on the supply at the rate of 0% (or, in other words, the underlying supplier should include the value of the supply in the “Zero-rated supplies” box in its GST return).

Listing intermediary – Defined in section 60CB(8) as a person who lists taxable accommodation services on an electronic marketplace on behalf of an underlying supplier who makes those supplies through the electronic marketplace. The definition also requires that the person enters into an agreement with the marketplace operator to list or advertise the services provided by the underlying supplier.

Flat-rate credit – Input tax that must be deducted by the operator of an electronic marketplace that is treated as the supplier of listed services where the underlying supplier has not notified the marketplace operator that they are registered for GST. Section 20(3N) sets out the prescribed rate of the flat-rate credit. For a supply of taxable accommodation, ride-sharing/ride-hailing, or delivery services for food and beverages, as at the date of publication of this special report, the prescribed rate is 8.5% of the value of the supply. The marketplace operator must pass this on to the underlying supplier.

Where a listing intermediary is interposed between the underlying supplier of the listed services and the operator of the electronic marketplace, the listing intermediary will be treated as though they are the operator of the electronic marketplace for the flat-rate credit. This means that if the underlying supplier has not notified the listing intermediary that they are registered for GST, the listing intermediary (instead of the marketplace operator) must deduct input tax for the flat-rate credit and pass this on to the underlying supplier. The listing intermediary will also be required to provide the monthly statement to the underlying supplier.

Detailed analysis

Scope of the GST rules for listed services

Sections 2(1) definitions of "electronic marketplace", "flat-rate credit", "listed services", 8(3), 8C, 10(6B), 60C and 60CB(8) of the GST Act

The definition of "electronic marketplace" in section 2(1) is amended to reflect the different types of goods and services that can be provided through an electronic marketplace by an underlying supplier.

The definition now sets out that an electronic marketplace is a marketplace operated by electronic means through which another person (an "underlying supplier") may make a supply of certain goods or services through the operator of the marketplace to a recipient of those goods and services. Those goods and services include a supply of remote services, distantly taxable goods, and listed services. The concept of an electronic marketplace remains unchanged, which is essentially an electronic medium that matches buyers and sellers, or allows them to interact, to facilitate the sale and purchase of goods and services. It includes a website, internet portal, gateway, store, distribution platform, or other similar marketplace and excludes a marketplace that solely processes payments.

For these rules to apply, there must be an arrangement that involves an underlying supplier providing services through an electronic marketplace to a recipient. In circumstances where the recipient of the services contracts directly with a person and there is no third-party operator of an electronic marketplace involved, the marketplace rules for listed services will not apply. The GST treatment of the supply of these services will depend on whether the supplier of the services is registered for GST.

New defined terms have been inserted for "flat-rate credit" and "listed services". The flat-rate credit refers to the deduction a marketplace operator or listing intermediary is required to take as input tax, and that must be passed on to underlying suppliers that are not registered for GST in recognition of the GST on goods and services they use to make supplies of listed services.

The definition of "listed services" refers to those services set out in section 8C(2). Listed services are not set out in the Interpretation provision of the GST Act and are instead set out in section 8C.

Section 60CB(8) defines the term "listing intermediary" as a person who lists services described in section 8C(2)(a) on an electronic marketplace on behalf of an underlying supplier who makes those supplies through the electronic marketplace. The definition also

requires that the person enters into an agreement with the marketplace operator to list or advertise the services provided by the underlying supplier.

Section 8C sets out the substantive rules for listed services and signposts to other provisions in the GST Act that are relevant.

The “listed services” are:

- accommodation other than accommodation that would be GST-exempt (section 8C(2)(a))
- ride-sharing and ride-hailing services (section 8C(2)(b)(i)), and
- delivery services for food, beverages, or both (section 8C(2)(b)(ii)).

Section 8C(7) expands the scope of listed services to include services that are closely connected with these services that are advertised, listed, or otherwise made available through an electronic marketplace.

Accommodation other than accommodation that would be GST-exempt

Included in the definition of “listed services” is accommodation other than accommodation that is exempt from GST under section 14(1)(c). Accommodation is exempt under section 14(1)(c) if it is accommodation provided in a dwelling that is used by the person as their principal place of residence and for which they have rights of quiet enjoyment.

All other forms of accommodation provided in New Zealand are taxable, usually at 15%. This includes short-term rental and visitor accommodation. However, the GST Act includes special rules for supplies of certain domestic goods and services provided during a stay of more than four weeks in a “commercial dwelling”. These rules provide for a special tax rate of 9% on these supplies. Section 10(6B) overrides these special rules when accommodation is supplied through an electronic marketplace. This is because it would be impractical for marketplace operators to identify whether the listed services would qualify as domestic goods or services supplied during a stay in a commercial dwelling or another type of taxable accommodation. Therefore, all accommodation services provided through an electronic marketplace (other than exempt accommodation) will be subject to GST at the standard rate of 15% where it is provided or received in New Zealand.

For the avoidance of doubt, this also includes accommodation in a room provided to a guest in a host’s principal place of residence (that is, their own home). In these circumstances, the room being provided to the guest is not the guest’s principal place of residence, nor would the guest have rights of quiet enjoyment.

It will generally be straightforward to determine whether accommodation has been provided or received in New Zealand. This is because underlying suppliers of accommodation in New Zealand will provide the marketplace operator through which accommodation is provided with the address of the property where the accommodation is provided.

A person that owns a property in which taxable accommodation is provided through an electronic marketplace may engage the services of a property manager to manage the property, for example holiday house rentals or apartments with management rights arrangements. In such circumstances, it will generally be the case that the person that is supplying the accommodation through the electronic marketplace will be the owner of the property and not the property manager. This means that the owner of the property is the underlying supplier.

In some circumstances, the rules for listing intermediaries may apply. This is likely to be the case when the property manager enters into a contractual arrangement in their own name with the marketplace operator to list accommodation on an electronic marketplace on behalf of the property owner. These rules are discussed further at "[Listing intermediaries](#)" on page 44.

In some situations, such as motels, a person (the lessee) may purchase a business lease from the freehold property owner (the lessor) and will run the accommodation business. In this situation, the lessee is supplying the accommodation through an electronic marketplace. It is therefore the lessee who is the underlying supplier, not the lessor.

The disposal of property used to provide accommodation through an electronic marketplace is not a listed service.

Ride-sharing and ride-hailing

The definition of ride-sharing and ride-hailing services is set out in section 8C(8). It sets out that these services are provided through an electronic marketplace that involves the engagement of a personal driver to transport a person to their chosen destination.

Ride-sharing and ride-hailing services therefore would not include services where the travel route is pre-determined by the supplier such as a bus route, a ferry service, cruise, or flight between certain destinations. In these cases, the passenger is not usually able to direct the driver towards a particular place, destination, or route. The passenger will also not usually have control over both the time and the destination.

Many types of transportation services involve the customer purchasing a service directly from a GST-registered supplier of transportation services, such as a bus company or boat

charter. In these cases, the services are not provided through an electronic marketplace so the rules for marketplace operators do not apply. This is because the rules for marketplace operators apply only where there is an underlying supplier (of, for example, a listed service), a marketplace operator, and a recipient of the services. In a situation where a person contracts directly with the supplier of the services, there is no marketplace operator involved.

Delivery services for food and/or beverages

The transportation of beverages, food, or both these goods is included as a listed service. This does not include the supply of beverages or food itself. It is only the delivery services that are included in the definition.

The marketplace rules for listed services will not apply in circumstances where a business enters a contract with a person for the delivery of food and/or beverages, and that business engages the services of an independent contractor or an employee to carry out the delivery services. This is because in such circumstances the business is the supplier of the services (and not the independent contractor or the employee). GST will usually already apply to these services because the person providing them will generally be registered for GST.

In contrast, where a person uses an electronic marketplace operated by a third party to enter a contractual relationship with other persons for food and/or beverage delivery services, the marketplace rules for listed services will usually treat the marketplace operator as the supplier of these services for GST purposes. It will therefore be the marketplace operator with the obligation to return GST on the services to Inland Revenue and not the deliverer.

Example 1: Delivery services for food provided but not through an electronic marketplace

Andraya's Eats Ltd carries on a business of delivering restaurant meals to customers via its app. Andraya's Eats Ltd is registered for GST and GST applies to its services.

Andraya's Eats Ltd's business model involves arranging for independent contractors to undertake the delivery of restaurant meals to Andraya's Eats Ltd's customers. There is no contractual relationship between the independent contractors and Andraya's Eats Ltd's customers.

The rules for marketplace operators do not apply because Andraya's Eats Ltd is not an electronic marketplace. This is because the independent contractors that provide delivery services are not providing delivery services under any direct contractual

agreement with Andraya's Eats Ltd's customers. The independent contractors are instead providing services to Andraya's Eats Ltd.

Andraya's Eats Ltd should continue to return GST under the standard GST rules.

Closely connected services

Section 8C(7) expands the scope of listed services to include services that are closely connected with a "listed service" referred to in section 8C(2). This means that marketplace operators are required to account for GST on these services if these services are advertised, listed, or otherwise made available through the electronic marketplace.

This is intended to include services that are ancillary to the listed service, such as cleaning, where a fee is charged for such services as part of the overall supply of a listed service made through an electronic marketplace.

Example 2: Cleaning services

Jenny seeks accommodation on Waiheke Island for an upcoming holiday. She wants to stay in a holiday home on the beachfront and uses an electronic marketplace that offers accommodation to find a suitable place to stay.

Geoff provides accommodation in his property through the electronic marketplace.

Jenny pays a nightly rate to the electronic marketplace. Jenny is also charged a cleaning fee at the end of her stay. The electronic marketplace collects the cleaning fee as part of the total consideration that it collects from Jenny.

The marketplace operator would be required to account for GST on the cleaning fee as it corresponds to a service that is closely connected with taxable accommodation, which is a listed service.

Although cleaning services are a common example, the phrase "closely connected services" is intended to be broad and capture all services that are closely connected to the listed services and that are advertised, listed or otherwise made available through the electronic marketplace.

An exception to the rule exists for closely connected services that are supplied by a marketplace operator to the recipient of the listed service. This is because the services are separate to the services provided by the underlying supplier. This is intended to exclude

services such as a foreign exchange reserve that a marketplace operator may provide its customers.

Example 3: Reserving a foreign exchange rate

David is overseas-based and is looking for accommodation in New Zealand for an upcoming holiday. He uses an electronic marketplace for these purposes.

The marketplace operator offers a service to its customers that enables them to lock in a foreign exchange rate. David is not sure when he will visit New Zealand but wants to reserve the foreign exchange rate that is available to him at the time he is browsing for accommodation.

This service is not closely connected with the supply of a listed service because the service is offered directly by the marketplace operator to David. The marketplace operator would not account for GST on the supply of this service under the rules for listed services. It may need to account for GST on the supply of this service to David under other GST rules.

A service would not be considered closely connected with a listed service if the service did not arise because of the listed service itself. The effect of this is that services which are not ancillary to a listed service, such as rental vehicle hire or a tourist attraction, would not be included within the scope of listed services and the marketplace operator would not account for GST on these supplies under the rules for listed services.

When marketplace operators are treated as suppliers

Amended section 60C provides that the operator of an electronic marketplace is treated as the supplier of listed services if the marketplace operator:

- authorises a charge for the supply of listed services to the recipient
- authorises the delivery of the supply of listed services to the recipient, and/or
- sets a term or condition under which the supply of listed services is made, whether directly or indirectly.

This applies whether the marketplace operator is a resident or non-resident for GST purposes in New Zealand. It also applies whether the underlying supplier of the listed services is a resident or a non-resident for GST purposes in New Zealand.

These are the same tests that apply to determine whether a marketplace operator is treated as the supplier of remote services supplied in New Zealand.

Marketplace operators will not be treated as the supplier of listed services if none of these tests are met. This means that a person that runs a website that contains a messaging board enabling a person to list properties available for rent may not be a marketplace operator.

The following explains in more detail what is meant by “authorise the charge for the supply” and “directly or indirectly set a term or condition under which the supply is made”.

Meaning of “authorise the charge for the supply”

The meaning of “authorise the charge for the supply to the recipient” is broad, covering the situation where the marketplace authorises the charge on behalf of the underlying supplier of the services or as a processing agent for the underlying supplier. However, providers that only process payments are excluded from the definition of “electronic marketplace”.

An electronic marketplace authorises the charge to the recipient if it communicates the liability to pay to the customer, or otherwise influences whether or when the customer pays for the supply. This may be done by initiating the process through which the recipient is charged and includes situations where the marketplace connects the recipient to a third-party payment processor who receives the marketplace operator’s instruction. To authorise the charge, it is not necessary for the marketplace operator to collect or receive the payment, or be involved in each of the steps in the payment authorisation process.

Meaning of “directly or indirectly set a term or condition under which the supply is made”

The meaning of “directly or indirectly set a term or condition under which the supply is made” is very broad. This concept looks beyond the formal contractual relationship to the influence exercised by the marketplace operator. The marketplace operator does not need to have any direct involvement in determining the contractual arrangements between underlying suppliers and buyers using the marketplace to be responsible for GST on supplies.

A requirement for underlying suppliers to comply with the marketplace’s listing policies will in many cases mean that the marketplace does (at least indirectly) set a term or condition under which the supply is made, meaning that the marketplace operator will be responsible for GST on the supply. However, this may not be true in all cases and will depend on what the marketplace’s specific listing policies are.

The “directly or indirectly” test is a proxy for the level of control or influence the marketplace operator has over the sale and any post-sales processes, such as customer complaints and refunds. A mere requirement that listings comply with New Zealand’s regulatory

requirements or, for example, that listings do not contain offensive language is not sufficient to meet this test.

However, there are several marketplace listing policies that will meet this test, including:

- The offer, acceptance, payment, or delivery of the services is to be communicated through the marketplace.
- The underlying supplier must accept one or more specific payment methods.
- The marketplace operator has the right to withhold the recipient's payment from the underlying supplier until the contractual performance of the services is completed.
- Use of the marketplace's grievance or dispute management procedures for underlying suppliers and recipients.
- The marketplace operator has the right to set the price for which listed services are sold.
- Underlying suppliers are required to meet particular performance requirements, such as requiring them to maintain a minimum customer rating to supply listed services on the marketplace.
- Underlying suppliers are required to display a rating based on stipulated behaviours relating to that underlying supplier's conduct.

In practice this means there will be very limited circumstances where an electronic marketplace operator will not be responsible for GST on supplies of listed services through the marketplace.

Example 4: Marketplace operator treated as the supplier of taxable accommodation

Chaz Intermediaries Ltd is a New Zealand tax resident and runs a website that connects accommodation hosts with guests. Hosts create an account on the website where they can upload photographs of their property, list dates that the property is available, and set a nightly rate.

Chaz Intermediaries Ltd offers this service for a fee that it charges hosts. Guests can book properties that are listed by hosts provided the property is available. Chaz Intermediaries Ltd connects the guest to a third-party payment processing portal which processes the payment for the booking.

Because Chaz Intermediaries Ltd authorises the charge for the supply of taxable accommodation, it is treated as the supplier of the accommodation to the guests.

Example 5: Website enables accommodation booking – website operator not a marketplace operator

Kraymond's List Ltd developed a smartphone app that lets users post community notices and classified advertisements for a small upfront listing fee. Several short-term accommodation hosts list properties available for rent on it. Guests can use the app to communicate with the hosts directly, although there are no rules preventing hosts and guests from communicating via other mediums such as email, phone, or other messaging apps, nor from posting links to listings on third-party websites.

Hosts manage property bookings directly, often through the messaging service offered by the app. Guests typically pay the hosts a deposit via internet banking transfer before staying in the property, and at the end of their stay, pay the balance of the booking. However, hosts can set their own policies as to whether they require a deposit to be paid upfront and, if so, how much the deposit is.

Aside from removing listings that are fraudulent or offensive, Kraymond's List Ltd does not moderate listings or intervene in disputes between hosts and guests.

Kraymond's List Ltd does not set any terms or conditions under which the supply of accommodation is made. It also does not authorise the charge for the supply of the accommodation. It is therefore not treated as the supplier of accommodation.

Listed services before 1 April 2024

The marketplace rules for listed services take effect on 1 April 2024. This means if a listed service is supplied through an electronic marketplace before 1 April 2024, the marketplace operator is not treated as the supplier of the services, and it would not account for GST on the sale of the services.

Example 6: Listed services purchased before 1 April 2024

Gerard and Nicole are based overseas. They purchase accommodation in New Zealand through an electronic marketplace in March 2024. The accommodation is booked for June 2024.

The marketplace operator is not treated as the supplier of the accommodation, and it therefore does not account for GST on the sale.

There are no special rules that determine the time of supply for listed services. The time of supply for listed services will therefore generally be the earlier of the time an invoice¹ is issued, or a payment is received, for the supply.

While there are no special rules that determine the time of supply for listed services, a transitional rule exists for contracts for taxable accommodation that were entered into before 1 April 2024. This transitional rule is explained under "[Transitional rule for taxable accommodation](#)" on page 54.

When a supply of listed services is made through multiple electronic marketplaces

Section 60C(3) contains an ordering rule to determine which marketplace operator is treated as the supplier when there is more than one marketplace operator involved in a single supply of listed services. Under this rule, it is the first marketplace operator that authorises the charge for the listed service or receives the consideration for the supply of the listed service that is treated as the supplier.

When a marketplace operator is treated as the supplier of listed services, sections 8C(3) and 60(1C) apply. Under these rules:

- The person that provides the services through the electronic marketplace (the underlying supplier) is treated as having supplied those listed services to the operator of the electronic marketplace. These services are zero-rated under section 11A(1)(jc) and the underlying supplier therefore does not collect output tax on this supply.
- The operator of the marketplace receives the services from the underlying supplier and does not claim input tax for the services because the supply is zero-rated. The marketplace operator is also treated as supplying those same services to the recipient

¹ This is a document notifying an obligation to make payment.

of the services. The supply of these services is standard rated where the services are performed, provided or received in New Zealand. This means the marketplace operator is required to account for GST on the supply it is treated as making.

The obligation for the marketplace operator to account for GST on the supply it is treated as making applies in all circumstances provided the relevant tests are met (see "[When marketplace operators are treated as suppliers](#)" on page 15).

Whether a person is considered an operator of an electronic marketplace through which an underlying supplier makes a supply of listed services will depend on the specific facts. For instance, automated inventory tracking systems such as those used in the accommodation industry² or payment processing systems, would not be considered electronic marketplaces in and of themselves.

How marketplace operators account for GST on supplies of listed services they are treated as making

Section 8C(3) provides that section 60(1C) applies when a supply of listed services is made through an electronic marketplace. The effect of this is that, for a supply of listed services:

- The underlying supplier is treated as making a supply to the operator of the electronic marketplace and this supply is zero-rated (under section 11A(1)(j)) if the underlying supplier is GST-registered, or if the underlying supplier is not GST-registered the supply is not subject to GST.
- The marketplace operator is treated as making this same supply, with the addition of GST at the standard rate of 15%, to the recipient of the listed services.

Where a marketplace operator has an agreement that entitles the underlying supplier to the consideration paid by the recipient of the listed services, it will need to consider whether its contracts need to be altered to allow it to retain, and own, enough of the funds paid by the customer so it can fund its GST liability in respect of the listed services.

For GST purposes, this would mean that the consideration paid for the supply that is treated as being made by the marketplace operator to the recipient of the listed services is more than the consideration paid by the marketplace operator for the deemed supply of listed services made by the underlying supplier to the marketplace operator under section 60C(1)(a). In such a situation, paying GST to Inland Revenue does not give rise to additional

² For example, a Central Reservation System or Computerised Reservation System (CRS), or a Global Distribution System (GDS).

consideration for facilitation services the underlying supplier receives from the marketplace operator.

Example 7: GST on a supply of listed services where marketplace operator is treated as supplier

A supply of listed services with a value of \$115 including GST is made through an electronic marketplace.

For GST purposes, the marketplace operator is treated as the supplier under section 60C.

The parties have agreed the marketplace operator is entitled to retain enough of the funds from the recipient of the listed services to fund its GST liability (in this situation, \$15). Therefore, the value of the supply from the perspective of the underlying supplier is \$100. This applies whether the underlying supplier is GST-registered or not. If the underlying supplier is GST-registered, they would account for output tax on the supply at the rate of 0%. GST does not apply if the underlying supplier is not registered for GST.

The marketplace operator can use \$15 of the \$115 paid by the recipient of the listed services to satisfy its GST liability. The remaining \$100, the GST-exclusive value of the listed services, is payable to the underlying supplier for its deemed supply to the marketplace operator.³

For GST purposes, where a marketplace operator or listing intermediary recovers or deducts an amount from a payment due to the underlying supplier and uses this amount to satisfy its output tax liability for the supply it is treated as making, this does not give rise to any GST implications. This is because section 60C(3B) and (3C) provides that no consideration arises for the collected amount in this situation under the GST Act.

When services are performed, provided or received in New Zealand

The GST Act has rules that determine where the place of supply for goods or services is. The general rules stipulate that goods or services are deemed to be supplied in New Zealand if

³ For simplicity, this example ignores the fees charged by marketplace operators for providing facilitation services to underlying suppliers.

the supplier is a resident in New Zealand, and goods and services are deemed to be supplied outside New Zealand if the supplier is a non-resident. These rules are contained in section 8.

Amendments to section 8 override the general rules. The amendments (to section 8(3)(c) and new section 8(3)(d)) ensure that a supply of listed services that is performed, provided or received in New Zealand is treated as a supply made in New Zealand and will therefore be subject to GST. This applies even if the underlying supplier of a listed service is a non-resident (such could be the case for accommodation provided in New Zealand, as the underlying landowner could be a non-resident) or the marketplace operator is a non-resident.

Unlike the rules for remote services and distantly taxable goods, there are no special rules that enable a different GST treatment for listed services. This means that they will always be subject to GST at the standard rate when they are performed, provided or received in New Zealand. It also does not matter if the recipient of the services is a non-resident. For example, a non-resident tourist staying in accommodation in New Zealand would be required to pay GST on their accommodation.

There are also no special rules that apply to determine whether listed services are “performed, provided, or received” in New Zealand. The ordinary meaning of these terms will apply to determine whether the services are listed services that would be subject to GST when provided through an electronic marketplace.

GST treatment of facilitation services and commissions related to listed services

Marketplace operators typically charge underlying suppliers a fee for facilitation services related to the supply of listed services, often in the form of a commission on the sale. “Facilitation services” involve connecting underlying suppliers with buyers.

The GST treatment of facilitation services will be subject to the ordinary GST rules if the supplier of the services (being the marketplace operator) is a tax resident in New Zealand. In this situation, the facilitation services will be subject to GST at the standard rate, regardless of whether the recipient (the underlying supplier of listed services) is registered for GST.

The GST rules for remote services apply to determine the GST treatment of facilitation services supplied by a person who is a non-resident for GST purposes. In this case, a supply of facilitation services is subject to GST at the standard rate if the supply is to a New Zealand-resident person who is not registered for GST. Under these rules, GST does not normally apply if the recipient of the services is a GST-registered person, although the marketplace operator can choose in this situation to treat the supply as zero-rated.

The following example sets out how GST applies in a situation where a marketplace operator is:

- treated as the supplier of listed services to a recipient (where GST applies at the standard rate of 15% if the services are performed, provided or received in New Zealand), and
- supplying separate facilitation services to the underlying supplier of the listed services.

Example 8: Marketplace operator supplying facilitation services to a GST-registered underlying supplier and treated as supplying listed services to another person

2K's Ride Services (2KRS) is an electronic marketplace through which underlying suppliers make supplies of listed services. It is not resident in New Zealand for GST purposes.

Wiremu provides ride-sharing services through 2KRS. He is registered for GST and has notified 2KRS of his GST registration.

Richeile also provides ride-sharing services through 2KRS and has notified the marketplace operator she is not registered for GST.

2KRS has an agreement with drivers that use 2KRS's app that entitles it to retain 20% of the total GST-exclusive fare for ride-sharing services that drivers supply to passengers using 2KRS's app. This 20% fee is the amount 2KRS charges for its facilitation services.

Two passengers purchase rides from Wiremu and Richeile through 2KRS for \$57.50 including GST (a GST-exclusive value of \$50).

Facilitation services

Because Wiremu is GST-registered, 2KRS can choose whether the facilitation services (\$10) it provides to Wiremu are treated as supplied outside New Zealand, in which case, there are no associated GST obligations with the supply. Alternatively, it can choose to treat the supply of facilitation services as zero-rated, in which case it would include this in its GST return (in the "Zero-rated supplies" box).

Because Richeile has notified 2KRS she is not registered for GST, 2KRS is required to account for GST on the supply of its facilitation services to Richeile. It must include the

facilitation services supplied to Richeile in the “Total sales and income” box of its GST return.

Listed services

2KRS is required to account for GST on the supply of listed services it is treated as making (that is, the rides provided by Wiremu and Richeile to their passengers).

The value of the listed service (\$50) is not reduced by the value of the facilitation services (\$10) supplied by 2KRS to Wiremu or Richeile.

Adjustments for supplies of listed services

The amendments treat the marketplace operator, instead of the underlying supplier, as the supplier of listed services. It follows that when adjustments for inaccuracies need to be made, marketplace operators will need to apply the rules as if they were the supplier of services, even though another person (an underlying supplier) is the contractual supplier of the services. This means that, in these circumstances, it is the marketplace operators (instead of the underlying suppliers) that must provide the supply correction information to the recipient and make the adjustments.

Section 25 applies when a GST-registered supplier returns too much or too little GST because of either a mistake, subsequent alteration to, or cancellation of a supply. This includes instances where, for example, the previously agreed consideration has been reduced through the offer of a discount or refund (whether partial or in full). In the situation where a marketplace operator has returned too much or too little GST to Inland Revenue as the result of an inaccuracy referred to in section 25(1) (such as an incorrect amount of consideration), section 25(2) provides that it should make an adjustment in its GST return when it is apparent that too much or too little GST has been returned.

In the situation where there is an alteration to or cancellation of a supply of listed services, section 19NB also requires the marketplace operator to provide supply correction information to the recipient of the supply.

GST-registered underlying suppliers

In most situations, the marketplace rules for listed services apply regardless of the underlying supplier’s GST registration status. This means that for any listed services provided through an electronic marketplace, it is the operator of the marketplace that is responsible for collecting and paying GST to Inland Revenue.

In limited circumstances, certain underlying suppliers can opt out of the marketplace rules. This enables them to continue accounting for GST on supplies of listed services they make through an electronic marketplace by including the supplies in their own GST returns. See [“Opting out of marketplace rules”](#) on page 38.

GST-registered underlying suppliers will continue providing their own GST returns. They will need to keep a record of what supplies are made through an electronic marketplace and what supplies are made directly to their customers. This is because the supply of listed services made through an electronic marketplace is zero-rated under section 11A(1)(jc) and therefore must be included in the “Zero-rated supplies” box in the GST return. Other supplies will continue being accounted for in the usual way.

GST-registered underlying suppliers will purchase or acquire goods and services they use to make supplies of listed services through an electronic marketplace. The process for deducting input tax for these goods and services does not change. GST-registered underlying suppliers will continue to deduct input tax on their expenses in their own GST returns in the usual way.

Example 9: Accounting for sales and expenses associated with listed services as a GST-registered underlying supplier

Manjula provides ride-sharing/ride-hailing services through an electronic marketplace. He is registered for GST because he also drives a taxi for a taxi company, and the company includes GST in its pricing which Manjula is required to use. Manjula has notified the marketplace operator that he is registered for GST.

Manjula pays for goods and services that enable him to provide his ride-sharing/ride-hailing services such as fuel, vehicle maintenance, and insurance. The total cost of these goods and services for the month is \$3,450 including GST. Manjula can recover the GST component of these costs as an input tax deduction by including these expenses in his GST return.

Manjula earns \$2,500 from providing ride-sharing/ride-hailing services through the electronic marketplace for the month. He also earns \$5,000 that month from his activities conducted off the electronic marketplace.

To complete his GST return, Manjula includes:

- \$2,500 of sales in the “Zero-rated supplies” box on his GST return. These are sales of listed services that Manjula is treated as making to the marketplace

operator. By including the sales in the “Zero-rated supplies” box, he will not have an output tax liability on these sales. Instead, the marketplace operator is required to account for output tax on these sales.

- \$5,000 of sales in the “Total sales and income” box in his GST return. These are the sales from Manjula’s activities conducted off the electronic marketplace.
- \$3,450 of costs in the “Total purchases and expenses” box in his GST return. He will then calculate input tax deductions of \$450.

Flat-rate credit

Sections 2(1) definition of “flat-rate credit”, 3A(1)(d), 8C, 20(3)(de), 20(3N), 20(3JD), 20(4E), 25AAA and 60H of the GST Act; section 141(1) and schedule 7, part A, clause 3B of the Tax Administration Act 1994; sections CX 1B and DB 2(2B) of the Income Tax Act 2007

The flat-rate credit is a credit available to underlying suppliers that are not registered for GST. The flat-rate credit represents the average amount of GST that underlying suppliers, if they were registered, would be able to recover as input tax on goods and services they purchase and use to make supplies of listed services. The prescribed amount for the credit is set out in section 20(3N).

For listed services that are taxable accommodation, ride-sharing/ride-hailing services, or delivery services for food and/or beverages, the prescribed amount is 8.5% of the value of the listed services. This percentage was determined with reference to the average amount of input tax deducted by GST-registered taxi drivers and holiday homeowners. The 8.5% rate represents the average amount of input tax these suppliers would be able to recover if they were registered for GST and accounting for input tax deductions. It does not consider those with greater expenses and purchases than sales, as it was assumed that in such circumstances, the underlying supplier would prefer to be registered for GST and would do so voluntarily.

The flat-rate credit is not available to GST-registered underlying suppliers. This is because GST-registered underlying suppliers will be entitled to deduct input tax for their actual expenditure. The flat-rate credit is also not available to a person in their capacity as an employee. This is because the employee of a marketplace operator who performs listed services as part of their employment duties is not an “underlying supplier”.

If an underlying supplier considers the flat-rate credit inappropriate for their circumstances, they may choose to register for GST voluntarily. This will enable them to deduct input tax for their actual expenditure, but also means that they will need to account for GST on all

supplies they make from their taxable activities (including at the 0% rate on supplies of listed services made through an electronic marketplace where the marketplace operator is treated as the supplier of the services). This includes accounting for output tax on assets used principally for making taxable supplies in the event those assets are disposed of or the taxable activity ceases.

Operation of the flat-rate credit

Section 20(3)(de) requires marketplace operators that are treated as supplying listed services to deduct input tax for the flat-rate credit. The deduction is calculated based on the prescribed rate of the flat-rate credit for the relevant listed service that is set out in section 20(3N). It must be taken as a deduction if the underlying supplier of listed services has not notified the marketplace operator that the underlying supplier is registered for GST at the time of supply of the listed services. Marketplace operators are then required to “pass on” the flat-rate credit to underlying suppliers. They must also notify, at least monthly, underlying suppliers of the total amount of flat-rate credit that has been passed on.

Example 10: Basic operation of the flat-rate credit on supplies of listed services

Henry provides short-term accommodation through an electronic marketplace. The marketplace operator is responsible for collecting GST on these supplies.

Henry notifies the marketplace operator that he is not a GST-registered person.

Josie books accommodation from Henry through the electronic marketplace for \$200 plus GST for the stay. The marketplace operator collects GST of \$30 on the supply of accommodation they are treated as making to Josie.

The marketplace operator applies the flat-rate credit scheme knowing Henry is not a GST-registered person. This results in the marketplace operator calculating:

- GST of \$30 at 15% of the value of the supply of the accommodation, and
- the input tax deduction of \$17 for the flat-rate credit at 8.5% of the value of the supply of the accommodation.

The marketplace operator is required to deduct input tax of \$17 from the \$30 of output tax payable to Inland Revenue. It is also required to pass on the \$17 to Henry as a flat-rate credit.

The marketplace operator must also pay the remaining \$13 to Inland Revenue as the net GST payable on the supply of accommodation.

To enable marketplace operators to apply the flat-rate credit, section 60H(1) requires underlying suppliers to notify the marketplace operator of their name, tax file number (IRD number), and GST registration status. Section 60H(2) requires underlying suppliers to notify marketplace operators of any subsequent change to their GST registration status, as this would affect entitlement to the flat-rate credit.

Section 60H(4) provides protection to marketplace operators that have relied on information from underlying suppliers if it is later discovered that the marketplace operator should not have passed on the flat-rate credit to an underlying supplier that was registered for, or liable to be registered for, GST. In such circumstances, absent the rules set out in section 60H(4), the marketplace operator could have a deficiency of tax equal to the amount of the input tax deducted for the flat-rate credit. Instead, section 60H(4) provides that the deficiency in tax attributable to a taxable period that arises because of the marketplace operator relying on the information provided by the underlying supplier is treated as a reduction in the total output tax allocated to the taxable period.

Information requirements for underlying suppliers entitled to the flat-rate credit

To enable marketplace operators to apply the flat-rate credit scheme, it is necessary for them to know whether the underlying supplier of listed services is a GST-registered person.

Underlying suppliers are therefore required under section 60H(1) and (2) to notify marketplace operators of their name, tax file number (IRD number), and GST registration status. Underlying suppliers are also required to notify marketplace operators of any changes to their GST registration status as soon as practicable (that is, if they become a GST-registered person or cease to be a GST-registered person).

If an underlying supplier does not notify a marketplace operator that they have become registered for GST, this could result in the marketplace operator passing on the flat-rate credit which the underlying supplier is not entitled to. In these circumstances, the underlying supplier would be required to account for this as an output tax adjustment in its GST return. They may also be liable for shortfall penalties.

Conversely, if an underlying supplier ceases to be a GST-registered person but does not notify the marketplace operator of this change, the marketplace operator will not know to deduct input tax for the flat-rate credit and pass this on to them.

A person who has appropriate authority to act on behalf of an underlying supplier can also provide information about the underlying supplier's name, IRD number, and GST registration status.

Reporting the flat-rate credit

Marketplace operators are required to provide underlying suppliers with a statement showing the flat-rate credit passed on to them. Section 8C(6) requires this statement to be provided to underlying suppliers at least once a month. This could be based on calendar months or be provided monthly based on a date chosen by the marketplace operator or listing intermediary. If a marketplace operator wants to provide information about the flat-rate credit to underlying suppliers more frequently than monthly, this is also permitted.

This requirement is necessary to ensure that GST-registered underlying suppliers who receive the flat-rate credit (which they are not entitled to) will be alerted to it. GST-registered underlying suppliers are required to account for any flat-rate credit they receive as output tax in their own GST returns. This reverses the benefit of the flat-rate credit for GST-registered persons who will be deducting input tax for goods and services related to their supplies under the usual GST rules.

The statements to be provided by marketplace operators to underlying suppliers should show the total amount of the flat-rate credit passed on to them for the month (or, if the marketplace operator has chosen to provide a statement more frequently, for that period). The statement should show sufficient information that enables the underlying supplier to include, as an output tax adjustment, the amount of flat-rate credit they received in the correct taxable period. This information could be included in existing statements provided to underlying suppliers which show the total amount of consideration underlying suppliers are due, or have received, for services performed for the relevant period.

If a marketplace operator offsets other fees and charges for services it provided to an underlying supplier against the underlying supplier's flat-rate credit, the statement must still show the full amount of the flat-rate credit that was deducted as input tax by the marketplace operator in respect of the listed services made by the underlying supplier. In other words, the amount of the flat-rate credit reported to the underlying supplier should not be reduced or offset by other fees or charges.

Process for resolving under-deductions and over-deductions of input tax for the flat-rate credit

Section 25AAA applies when an operator of an electronic marketplace discovers that either too much, or too little, input tax has been deducted for the flat-rate credit. This might occur if, for instance, the supply of listed services is cancelled or the consideration for the supply changes after input tax for the flat-rate credit has already been deducted for the supply. In

such circumstances, the flat-rate credit may have already been passed on to the underlying supplier.

Section 25AAA sets out the process that marketplace operators must follow when an over-deduction or under-deduction of the flat-rate credit is discovered.

For over-deductions, the marketplace operator must return an amount of output tax that is equal to the excess input tax deduction. If the marketplace operator has already passed the flat-rate credit on to the underlying supplier at the time of discovering the inaccuracy, the amount of the excess credit may be offset against another amount of flat-rate credit required to be passed on to the underlying supplier.

The rules in section 25AAA for over-deductions do not apply if the marketplace operator deducted input tax for the flat-rate credit for a supply by a GST-registered underlying supplier. If a GST-registered underlying supplier receives the flat-rate credit, they must account for this as an output tax adjustment in their GST return. Underlying suppliers are required to notify marketplace operators of their GST registration status, including any changes to their GST registration status, and marketplace operators should rely on this information when determining whether to apply the flat-rate credit scheme.

For under-deductions, the marketplace operator must deduct further input tax for the flat-rate credit. It must then pass this on to the underlying supplier. If the marketplace operator chooses, it can pass this additional amount on to the underlying supplier by offsetting it against other amounts owed by the underlying supplier to the marketplace operator (for example, commissions and other charges). In this situation, the amount that is offset must still be reflected in the monthly statement provided to the underlying supplier. The amount that is offset does not need to be shown separately on the statement from the other flat-rate credit amounts passed on for the relevant period – it is sufficient to include this amount in the total flat-rate credit passed on to the underlying supplier for that period.

The relevant adjustment of output tax or input tax to correct the inaccuracy must be made in the GST return for the taxable period in which the inaccuracy is discovered.

Example 11: Flat-rate credit adjustment when the supply of listed services is cancelled

An unregistered underlying supplier makes a supply of listed services through an electronic marketplace operated by a New Zealand-incorporated company that files its GST returns monthly. Time of supply for the listed services occurs in May 2024. The operator of the electronic marketplace calculates the flat-rate credit based on the value

of the listed services and takes an input tax deduction for the flat-rate credit in its May 2024 GST return.

The supply is cancelled in October 2024 before the flat-rate credit is passed on to the underlying supplier (but after input tax has already been deducted for the flat-rate credit). The marketplace operator finds out about the cancellation (and therefore becomes aware that it has deducted too much input tax for the flat-rate credit for the cancelled supply) during that same month.

The marketplace operator returns an amount of output tax that is equal to the excess input tax deducted (in this case, the entire amount of the flat-rate credit that was first calculated for the supply) in its October 2024 GST return – October 2024 being the taxable period in which the marketplace operator became aware the supply was cancelled.

Requirement to pass on the flat-rate credit

Marketplace operators that have taken a deduction of input tax for the flat-rate credit must then pass this on to the underlying supplier. This is required by section 8C(3)(b)(ii).

The GST Act does not explicitly set out a timing requirement for marketplace operators to pass on the flat-rate credit to underlying suppliers that have purported to be unregistered persons. This ensures there is sufficient flexibility to allow marketplace operators to pass on the flat-rate credit to underlying suppliers alongside other funds due to the underlying supplier (for example, the fare for the ride-sharing/ride-hailing services or the amount of the booking for the accommodation). It also ensures that marketplace operators can choose not to pass on the flat-rate credit until the services are performed. This reduces the risk that a marketplace operator may pass on the flat-rate credit to an underlying supplier who ultimately does not end up providing the services to which the credit relates.

For the avoidance of doubt, section 8C(4B) provides that an amount of flat-rate credit passed on to an underlying supplier is not consideration for a supply of any goods or services by the underlying supplier.

Disclosure of GST registration status by Inland Revenue

The Commissioner can, despite the confidentiality rules in the Tax Administration Act 1994 (TAA), provide information about a person's GST registration status to a marketplace operator to ensure the effective operation of the flat-rate credit scheme. The Commissioner can disclose this information under clause 3B, part A of schedule 7 to the TAA. Section 8C(5)

sets out that if the Commissioner notifies a marketplace operator of an underlying supplier's GST registration status, the marketplace operator must act on this notification as soon as practicable.

Requirements of GST-registered persons who receive the flat-rate credit

If a GST-registered person receives the flat-rate credit they must account for this as an output tax adjustment in their GST return. The output tax adjustment is required for the taxable period in which the flat-rate credit was received. These requirements are set out in section 20(3JD) and 20(4E).

Example 12: GST-registered person receives flat-rate credit and must make an output tax adjustment to reverse the benefit

In completing her GST return for the period ending 31 March 2025, Poppy realises she received flat-rate credits from a marketplace operator related to listed services she supplied through an electronic marketplace. Poppy identifies this by reviewing the statement she receives from the marketplace operator that informs her of her total flat-rate credit for the month of March.

Poppy became a GST-registered person in February 2025. She forgot to notify the marketplace operator of this change in her circumstances. Poppy is keen to correct the error. The total amount of flat-rate credits Poppy received for February and March was \$6,000.

To correct this error, Poppy must include \$6,000 as an output tax adjustment in her GST return for the taxable period ending 31 March 2025. The \$6,000 of output tax will be offset by any input tax deductions that Poppy can take for the period.

A GST-registered person who receives the flat-rate credit will also have a tax shortfall equal to the amount of the flat-rate credit they received. Section 141(1) of the TAA provides that a tax shortfall may arise because of a provision in an Inland Revenue Act. In these circumstances, a tax shortfall arises because of section 8C(3)(c)(ii), which means the person could be liable for shortfall penalties. Having a tax shortfall does not mean that penalties will be imposed automatically. The Commissioner may consider making an assessment of shortfall penalties in cases where a person continuously misrepresents their GST registration status to claim amounts of the flat-rate credit that they are not entitled to.

Example 13: GST-registered person receives flat-rate credit resulting in a tax shortfall

Bradd is a registered person and provides taxable accommodation through an electronic marketplace. He has notified the marketplace operator that he is not a GST-registered person.

Bradd has a six-monthly taxable period. The only supplies Bradd makes are through an electronic marketplace. Between April 2024 and September 2024, Bradd makes supplies through the electronic marketplace equal to \$46,000 excluding GST.

Bradd acquired goods and services that he used in making supplies through the electronic marketplace. The total value of these goods and services was \$17,500 including GST. He deducted input tax of \$2,282.60 in his GST return.

Because Bradd notified the marketplace operator that he was not a GST-registered person, the marketplace operator also passed on the flat-rate credit to Bradd for his listed services. The amount of flat-rate credit Bradd received totalled \$3,910.

Bradd therefore has a tax shortfall equal to this amount and could be liable for a shortfall penalty.

If a GST-registered underlying supplier of listed services receives a flat-rate credit spanning multiple taxable periods (and therefore multiple GST returns), an output tax adjustment would need to be made in the GST return for each taxable period that the underlying supplier received the flat-rate credit. Section 20(4E) sets out the timing rules for the adjustments.

Example 14: GST-registered person receives flat-rate credit spanning multiple taxable periods

Marley is a GST-registered underlying supplier of listed services. He incorrectly receives the flat-rate credit because he had not notified the marketplace operator of his GST registration.

Marley has a six-monthly taxable period, providing GST returns for the periods covering 1 April to 30 September and 1 October to 31 March.

Marley receives the following flat-rate credits:

- \$600 in February
- \$400 in March
- \$800 in April.

Marley becomes aware of his mistake and notifies the marketplace operator of his status as a GST-registered person at the end of April.

Marley is required to make an output tax adjustment of:

- \$1,000 (\$600 + \$400) in his GST return for the taxable period ending 31 March, and
- \$800 in his GST return for the taxable period ending 31 October.

Income tax implications of the flat-rate credit

The flat-rate credit is treated as excluded income for income tax purposes under section CX 1B of the Income Tax Act 2007, regardless of whether the underlying supplier receiving it is registered for GST. In this way it is treated the same as way as input tax payable under the GST Act to a GST-registered person.

Section DB 2(2B) of the Income Tax Act 2007 treats a person that is not registered for GST as if they were registered for GST for determining deductions for income tax. This applies to the extent that the person would have a deduction for expenditure that is attributable to supplies of listed services that are made through an electronic marketplace.

This means that deductions for expenditure incurred for income tax purposes must be taken on a GST-exclusive basis if the expenditure is attributable to deriving income exclusively through an electronic marketplace. This is because the flat-rate credit is a proxy for input tax that would be deductible if the person was registered for GST, and GST-registered persons are unable to take a deduction for GST-inclusive expenditure for income tax purposes.

Expenditure related to income derived from other activities will continue being deducted on a GST-inclusive basis. A person may incur expenditure for goods and services that are used partly to derive income from sales through an electronic marketplace and partly for non-marketplace-based sales. In these circumstances, the person will have incurred expenditure with a mixed purpose, and they will only be able to take a deduction for income tax on a GST-inclusive basis for expenditure attributable to income they derive from activities that are **not** conducted through an electronic marketplace.

If a person has mixed purpose expenditure – being expenditure related to deriving income through an electronic marketplace and through other means – the person should undertake the following process to determine their total annual deduction for income tax purposes:

- Identify the GST-inclusive and GST-exclusive amount of mixed purpose expenditure for the income year.
- Determine what proportion of expenditure must be taken on a GST-exclusive basis by applying the calculation under the heading “Formula for determining GST-inclusive and GST-exclusive deductions for expenditure with a mixed purpose”.
- Add deductions for expenditure incurred in deriving income that is not derived through an electronic marketplace.
- Include, in the total annual deduction, any amount deductible under the depreciation rules.

For persons not registered for GST, the value of depreciable property for depreciation purposes will continue to be calculated on a GST-inclusive basis (if GST applies).

The following paragraphs explain how to determine the proportion of expenditure to take as a deduction for income tax purposes on a GST-inclusive basis and on a GST-exclusive basis where the expenditure relates to both income derived through an electronic marketplace and income not derived through an electronic marketplace.

Determining GST-inclusive and GST-exclusive deductions for expenditure with a mixed purpose

To determine the total GST-inclusive deductions for mixed purpose expenditure, it is necessary to determine the proportion of income derived from sales that are not made through an electronic marketplace. This can be established by completing the following formula:

$$\frac{a}{a + b} = c$$

Where:

- a** is the income derived from making sales not through an electronic marketplace for the income year, and
- b** is the income derived from making sales through an electronic marketplace for the income year. This is the GST-exclusive amount because GST output tax is not taxable income.

- c** is the percentage applied to the total amount of GST-inclusive expenditure for income tax purposes that had a mixed purpose.

Example 15: GST-inclusive deductions for mixed purpose expenditure

Calvin derives income from sales of accommodation he provides through an electronic marketplace and through a website he maintains himself (which is not an electronic marketplace as defined in the GST Act). Calvin is not registered for GST and is not liable for GST registration.

Calvin identifies that he derived income for the 2024–25 income year from sales of accommodation of:

- \$20,000 (excluding GST) through an online booking platform, and
- \$8,000 through his own website.

Applying the formula above:

$$\frac{8,000}{8,000 + 20,000} = 28.57\%$$

Calvin can take a deduction equal to 28.57% of the GST-inclusive value of the expenditure incurred in deriving income from sales through an electronic marketplace and sales not made through an electronic marketplace.

Calvin would then need to add this to the GST-exclusive value of his remaining mixed purpose expenditure to determine his total deduction for income tax purposes. This is explained in the following paragraphs.

The remaining expenditure with a mixed purpose must be taken on a GST-exclusive basis. To determine the total deduction for expenditure on a GST-exclusive basis, the following formula can be applied:

$$(100\% - c) \times d$$

Where:

- c** is the percentage of GST-inclusive expenditure with a mixed purpose that can be taken as a deduction for income tax purposes, calculated on the previous page
- d** is the total amount of mixed purpose expenditure expressed on a GST-exclusive basis.

Example 16: Income tax deductions for mixed purpose expenditure

Calvin provides taxable accommodation through an online booking platform. He also advertises the accommodation himself through his own website. Calvin is not registered for GST or liable for GST registration.

The sales he makes through the online booking platform are listed services and the marketplace operator accounts for GST on these supplies. The sales he makes through his own website are not listed services and are not subject to GST.

For the 2024–25 tax year, Calvin identifies he made sales of:

- \$20,000 (excluding GST) through an online booking platform, and
- \$8,000 through his own website.

Calvin incurred the following expenses, all inclusive of GST, for the year:

- \$4,000 of commissions charged by the online booking platform
- \$3,500 of local council rates
- \$1,200 for house and contents insurance, and
- \$600 for repairs and maintenance.

For income tax purposes, Calvin would include in his income tax return:

- income from rents of \$28,000 (\$20,000 excluding GST from online bookings and \$8,000 from sales Calvin made directly), and
- deductions of \$8,284.67. The calculation of total deductions is explained below.

Calvin had deductions related to his own sales of \$1,514.21. This is the total of the GST-inclusive amount for the local council rates, house and contents insurance, and repairs and maintenance. These deductions can be attributed to Calvin's activities outside of the electronic marketplace (that is, $\$8,000 / \$28,000$, being his sales through his own website divided by his total sales excluding GST).

Calvin had deductions related to his sales made through an electronic marketplace of \$6,770.25 excluding GST. This is calculated as:

- 71.43% multiplied by his total mixed purpose expenditure excluding GST, plus
- the GST-exclusive amount of commissions charged by the online booking platform of \$3,478.26. Calvin cannot claim the GST-inclusive amount of the total commissions (\$4,000) as an income tax deduction because he received the flat-rate credit.

Effect of the flat-rate credit when person becomes registered for GST

If a person becomes registered for GST, for the period prior to GST registration, assets that they used to make supplies of listed services will be treated as having a non-taxable use for the apportionment and adjustment rules.

Once registered for GST, the person may choose to perform an adjustment at the end of their adjustment period (their balance date) which reflects the new percentage of use that relates to making taxable supplies – if this new percentage is a permanent change that is likely to be maintained for the foreseeable future.

Inland Revenue has published a special report on recent changes to the apportionment and adjustment rules.⁴ Further information is also available on Inland Revenue's website (keyword search: GST apportionment).

Opting out of marketplace rules

Sections 60C(2BB), (2BC), (2BD), (2BE), (2BF) and (3D), 60H(3) and 85D of the GST Act

Marketplace rules will generally treat the operator of an electronic marketplace that another person makes supplies through (the underlying supplier) as the supplier. This means that the marketplace operator becomes responsible for accounting for GST on these supplies.

Marketplace rules may not be appropriate for larger suppliers that already have established accounting systems and practices in place for managing compliance with their GST obligations. This is because marketplace rules could require these taxpayers to change their existing accounting systems and practices which would increase compliance costs for limited benefit to tax collection and tax administration.

The marketplace rules for listed services therefore include provisions that enable certain underlying suppliers to opt out of the rules. In certain circumstances, an underlying supplier can opt out of marketplace rules by notifying the marketplace operator that they will remain responsible for their own GST obligations. This is available to underlying suppliers that are required to maintain a monthly or two-monthly taxable period, which is those that make taxable supplies of more than \$500,000 in a 12-month period.

Some underlying suppliers may also be able to enter into an opt-out agreement with the marketplace operator. If an agreement was in place, these underlying suppliers would continue being responsible for their own GST obligations. Agreements can be entered into

⁴ See *Special report on GST apportionment and adjustment rules* published by Policy and Regulatory Stewardship, Inland Revenue (April 2023) available at: <https://www.taxpolicy.ird.govt.nz/publications/2023/2023-sr-gst-apportionment-and-adjustment-rules>

provided the underlying supplier meets specific criteria. If an underlying supplier stops meeting the criteria for an opt-out agreement, the agreement must be withdrawn. In these circumstances, the underlying supplier should notify the marketplace operator they no longer meet the criteria to opt out of the marketplace rules.

Underlying suppliers who have opted out of the marketplace rules will need sufficient information from the marketplace operator so they can correctly account for output tax on the supply. This will include the price, inclusive of any commissions, mark-ups or other fees due to the marketplace operator for their services, that the recipient of the supply will pay to the marketplace operator directly. This means marketplace operators will need to provide underlying suppliers with this information.

Suppliers over \$500,000 in a 12-month period

Underlying suppliers that are required to maintain a two-month or one-month taxable period under section 15 of the GST Act can unilaterally opt out of the marketplace rules by notifying the marketplace operator that they choose to be liable for the payment of GST on supplies they make and will continue to remain responsible for all obligations under the GST Act.

This opt-out is only available to underlying suppliers who are required to maintain a monthly or two-monthly taxable period for their GST returns (that is, they are required to provide GST returns on a monthly or two-monthly basis). This means an underlying supplier who chooses to provide GST returns on this basis but does not exceed at least \$500,000 in taxable supplies in a 12-month period is unable to opt out of the marketplace rules under this ground.

This opt-out ground is further restricted to **non-natural persons** only under section 60C(2BF)(a). This is to mitigate a potential integrity risk that a natural person could purport to be eligible to opt out of the rules under this ground, despite not meeting the criteria, and the marketplace operator having to accept this, ultimately resulting in no GST being collected on supplies made by this person.

If an underlying supplier no longer meets the criteria under this opt-out ground, they must inform the marketplace operator that they are no longer eligible to remain responsible for their own GST obligations. This will enable the marketplace operator to apply the marketplace rules, which will treat them as the supplier of the services and will therefore result in them having to collect and return output tax and provide taxable supply information.

Marketplace operators will not be required to verify that an underlying supplier meets this criterion. They will be able to rely on information they receive, by election, from the underlying supplier. This information must be retained by the marketplace operator in accordance with the general record keeping requirements for GST set out in section 75. This provides that records must generally be kept for seven years following the end of the taxable period to which they relate.

Suppliers eligible to enter agreements to opt out of marketplace rules

An underlying supplier can enter an opt-out agreement with a marketplace operator provided they:

- meet the requirements set out in a determination made by the Commissioner, or
- provide taxable accommodation and meet the 2,000-night threshold.

Criteria set out in a determination issued by the Commissioner

The Commissioner has the power under section 60(2BC) to issue determinations that set out the circumstances in which a person can enter into an opt-out agreement.

Before making a determination, the Commissioner is required to have regard to several factors. These factors, set out in section 60(2BD), are the compliance costs that would arise for underlying suppliers in making changes to their accounting systems and practices, and the size, scale, and nature of the services and activities undertaken by underlying suppliers.

The Commissioner has not issued a determination at the time of the publication of this special report. If a determination is issued, it will be published, and any underlying supplier that meets the requirements set out in the determination would be able to enter into an opt-out agreement with a marketplace operator.

The 2,000-night threshold

Underlying suppliers that supply taxable accommodation through electronic marketplaces may be able to enter an opt-out agreement provided they list more than 2,000 nights of accommodation on an electronic marketplace in a 12-month period. This also includes circumstances where the underlying supplier has a reasonable expectation that they can meet this requirement in the 12-month period.

Example 17: Reasonable expectation for more than 2,000 nights

Harris Hotels Ltd operates a multinational hotel chain. It runs a hotel business in Auckland, Christchurch, and Wellington.

Each hotel has 100 rooms. The rooms are available all-year round and are advertised on an electronic marketplace.

Harris Hotels Ltd therefore has a total of 109,500 nights of accommodation available through electronic marketplaces. This is calculated based on 300 rooms available for 365 nights.

It is not possible to aggregate accommodation nights across multiple electronic marketplaces for these purposes. This means that if a person has 1,000 nights available through one electronic marketplace and 1,500 nights available through another electronic marketplace, they would not be able to enter into an opt-out agreement under this test.

Example 18: More than 2,000 nights across multiple marketplaces – not eligible

Will and Nicole own six properties that they lease for short-term accommodation through multiple electronic marketplaces.

Five properties are available for rent all-year round through an electronic marketplace, Accommodation4U. This equates to 1,825 nights of accommodation available through Accommodation4U (5 × 365 nights).

The other property is available through another electronic marketplace. It is not available all-year round so Will and Nicole choose for this not to be advertised on Accommodation4U.

This means Will and Nicole are unable to enter an opt-out agreement with the marketplace operator for Accommodation4U based on having more than 2,000 nights of accommodation available in a 12-month period through the electronic marketplace.

Example 19: More than 2,000 nights on one electronic marketplace – eligible on other marketplaces

Heyes Hotels Co lists rooms available for rent through an electronic marketplace, A Co. It has 40 rooms available across its two New Zealand locations and these rooms are

available all-year round. All rooms are listed through A Co. It therefore satisfies the criteria to enter into an opt-out agreement with A Co.

The owners of Heyes Hotels Co want to list rooms on another electronic marketplace, B Co. It wants to trial providing accommodation through B Co and is not able to commit to listing more than 2,000 nights in a 12-month period through B Co until it sees whether B Co improves Hayes Hotels Co's bookings.

Heyes Hotels Co can enter an opt-out agreement with B Co because it satisfies the 2,000-night criterion on another electronic marketplace, A Co.

Example 20: 2,000-night criterion not satisfied – nights available exceed 2,000 in aggregate, but not on an individual electronic marketplace

Lucy and Richard have six investment properties – three in Wanaka and three in Waiheke. The properties are available for short-term rental accommodation.

The Wanaka properties are available for booking through an electronic marketplace, Sam's Stays Ltd. The Waiheke properties are available for booking through another electronic marketplace, Ben's Baches Co.

All properties are available all-year round and in aggregate, the 2,000-night threshold is satisfied. However, because the properties are listed on separate electronic marketplaces, Lucy and Richard are not eligible to enter an opt-out agreement with the operators of Sam's Stays Ltd or Ben's Baches Co.

Marketplace operators are not required to monitor whether underlying suppliers that have entered into an opt-out agreement with them list more than 2,000 nights of accommodation available through them in each 12-month period.

These agreements would apply for a 12-month period. This can be any 12-month period and does not need to coincide with a calendar year. However, if an underlying supplier does not have a reasonable expectation that they will list more than 2,000 nights of accommodation on one electronic marketplace for a later 12-month period, they may not renew their agreement to opt out of the electronic marketplace rules under this ground.

If a person is a member of a group of companies, the 2,000-night threshold can be applied on a group basis. This means that, provided the group of companies satisfies the 2,000-night threshold, all members of the group can individually enter into an opt-out agreement with marketplace operators. This is provided for in section 60C(2BE). The definition of "group of

companies” that applies for these purposes refers to the definition set out in the Income Tax Act 2007 which requires common voting interests of at least 66%.⁵

When determining what constitutes a “night” under this test, nights should be determined on a per listing basis. This means that each night a listing is made available to book on an electronic marketplace counts as one night under this test.

Example 21: What constitutes a “night” under the 2,000 nights test

Sam

Sam owns a five-bedroom house in Wanaka. The way the house is configured means that two of the bedrooms have their own ensuite and kitchenette. Both bedrooms have their own self-contained accessway down each side of Sam’s home, and the bedrooms can be locked from the outside to shut them off from the main house. When Sam is living in the house, he lists these two rooms as separate accommodation on an electronic marketplace, A Co. If Sam lists both of these rooms as available to book year-round, this would total 730 nights of accommodation available per annum under the 2,000 nights test ($365 \times 2 = 730$).

Shanae

Sam’s neighbour Shanae owns the five-bedroom house next door to Sam. Shanae’s house is configured in the same way as Sam’s (where two of the bedrooms have their own separate ensuite, kitchenette and self-contained accessway). For 300 days of the year, Shanae lists both rooms separately on A Co. (which totals 600 nights under the 2,000 nights test).

Shanae decides to travel to Europe for the summer and is away for 65 days. During the time that Shanae is away, she decides to list the entire house on A Co as one listing. This constitutes 65 nights of accommodation being made available. It is not relevant that two of the bedrooms provide additional facilities and can be used in a self-contained manner. The decisive factor is how many nights of accommodation Shanae has made available through the electronic marketplace, which is calculated on a per listing basis.

⁵ See section IC 3 of the Income Tax Act 2007.

Further requirements for opt-out agreements

Provided underlying suppliers meet the criteria for an opt-out agreement as set out above, and the marketplace operator agrees to an opt-out, section 60C(2BB) contains further requirements before an agreement is valid. Under these rules:

- the documentation provided to the recipient of the services must identify the supply as being made by the underlying supplier and not the electronic marketplace, and
- there must be an agreement, with that agreement being recorded in a document, that the underlying supplier is liable for the payment of tax for supplies of listed services and will continue to remain responsible for their tax obligations under the GST Act. This includes the requirement to provide the recipient with taxable supply information, if required, and providing GST returns and paying GST to Inland Revenue.

If these requirements are not satisfied, the marketplace operator will be treated as the supplier of listed services and will therefore be required to account for GST on these supplies.

Transitional provision for supplies of listed services

Section 85D applies to enable eligible underlying suppliers to enter into an agreement with marketplace operators, or notify marketplace operators, that they are opting out of the marketplace rules. This provision allows eligible underlying suppliers to opt out of the marketplace rules before they come into effect on 1 April 2024.

The Commissioner also has the power, from 1 April 2023 to issue determinations setting out criteria a person must meet if they wish to opt out of the marketplace rules but do not meet the statutory criteria.

Listing intermediaries

Section 60CB of the GST Act

It is especially common for owners of holiday homes to use a property manager or agent⁶ to list taxable accommodation in those properties on electronic marketplaces. In this situation, it is not uncommon for the host to have no relationship with the operator of the electronic

⁶ "Agent" is used here in a more colloquial sense, rather than in a precise legal sense. For instance, it does not necessarily refer to someone who is an agent for the purposes of section 60 of the GST Act, but rather has a broader meaning in this context referring to anyone who might list taxable accommodation on an electronic marketplace on behalf of the host.

marketplace on which the accommodation is listed or advertised. Where this is the case, the GST rules for electronic marketplaces may not work appropriately on their own. This is because the marketplace operator might not have any information about the host that is necessary for administering the flat-rate credit scheme (such as the host's name and GST registration status) and it may be difficult for the marketplace operator to obtain and hold this information, given the absence of both a contractual relationship and direct dealings with the host. This may make it impractical for the marketplace operator to administer the flat-rate credit scheme for such hosts.

Where the property manager or agent has a contractual relationship with an operator of an electronic marketplace to list or advertise the services on the marketplace, the agent (referred to as a "listing intermediary") will be responsible for all requirements related to the flat-rate credit (instead of those obligations being on the marketplace operator). As explained below, they will also be treated as making a zero-rated supply of the accommodation provided by the host to the marketplace operator, unless they are able to agree with the marketplace operator that they are liable for GST at the 15% rate on supplies of taxable accommodation.

Listing intermediary definition

A "listing intermediary" is defined in section 60CB(8) as a registered person who lists taxable accommodation on an electronic marketplace on behalf of a host who makes those supplies through the marketplace.

The definition of "listing intermediary" requires that the person enters into an agreement with the marketplace operator to list or advertise the accommodation provided by the host. A listing intermediary may also provide other services to hosts (such as property management services), but the listing intermediary definition does not require this.

An agent who lists taxable accommodation on an electronic marketplace on behalf of a host but who does not have an agreement in their own name with the marketplace operator to list or advertise the services on the marketplace does not meet the definition of a "listing intermediary". Therefore, they are not subject to the requirements on listing intermediaries (namely, the various requirements related to the flat-rate credit, which would normally be the responsibility of the marketplace operator but which become the responsibility of a listing intermediary when they are interposed between a host providing taxable accommodation and a marketplace operator). In this circumstance, the agent will instead provide information to the marketplace operator about the host, such as the host's GST registration status and bank account information.

Example 22: Property manager meets listing intermediary definition

Andraya uses the services of a property manager to manage her holiday home and advertise it on an electronic marketplace for short-stay accommodation. The property manager is registered for GST.

The property manager has an agreement in its own name with the operator of the electronic marketplace to list accommodation provided in multiple properties on the electronic marketplace. Aside from the addresses of the properties listed on the marketplace, the marketplace operator does not know anything about Andraya or any of the other owners of the properties listed on the marketplace by the property manager.

The property manager meets the definition of a listing intermediary.

Example 23: Person is not a listing intermediary

Willow has a holiday home in the Coromandel that she would like to rent out for the summer on Rent-A-Holiday-Home, a prominent electronic marketplace for short-stay accommodation. Willow is aware that her next-door neighbour, Callan, has an account on Rent-A-Holiday-Home that he sometimes uses to rent his own holiday home out for short-stay accommodation. Neither Willow nor Callan are registered for GST.

Willow is not a confident user of computers and smartphones, so she asks Callan if he can create an account on Rent-A-Holiday-Home for her and list the Coromandel holiday home on Rent-A-Holiday-Home as available for short-stay accommodation guests to book over the summer.

Callan creates an account on Rent-A-Holiday-Home for Willow and lists Willow's Coromandel holiday home as available to book over the summer. Even though the email address provided to Rent-A-Holiday-Home is Callan's secondary email address (rather than Willow's email address), the contract entered into with the marketplace operator to list the accommodation in the Coromandel holiday home is in Willow's name, not Callan's.

Callan is not a listing intermediary. Callan provides details of Willow's GST registration status (unregistered) and her bank account details to Rent-A-Holiday-Home so Rent-A-Holiday-Home can pay her the flat-rate credit.

Default rules for listing intermediaries – deeming of three separate supplies

Section 60CB(2) applies when a listing intermediary is interposed between a host providing taxable accommodation and an operator of an electronic marketplace. The listing intermediary is “interposed” between the host and the operator of the electronic marketplace on which the accommodation is listed if the marketplace operator only deals with the listing intermediary in relation to the accommodation listed (and not directly with the host). In this circumstance, it is likely that the marketplace operator does not hold any information about the host except for the address of the property the accommodation is provided in.

Under section 60CB(2), the supply of the accommodation is treated as three separate supplies:

- A supply from the host to the listing intermediary. This supply is zero-rated under section 11A(1)(jd) if the host is a registered person.
- A supply from the listing intermediary to the marketplace operator, which is also zero-rated under 11A(1)(jd). This zero-rated supply does not create a requirement for the listing intermediary to provide taxable supply information to the marketplace operator for the supply. It does however mean that the listing intermediary should include the value of this supply and all other zero-rated supplies that they make (or are deemed to make) in the “Zero-rated supplies” box in their GST return. The value of all such supplies also counts towards the person’s total supplies for determining whether they exceed the GST registration threshold.
- A supply from the marketplace operator to the guest, which is subject to GST at the standard 15% rate. This means the default setting for output tax when a listing intermediary is interposed between the host and an operator of an electronic marketplace is that the liability for output tax at the 15% rate remains with the marketplace operator (just as it would if the listing intermediary was not involved in the supply).

Application of flat-rate credit provisions

Section 60CB(5) provides that, under the provisions related to the flat-rate credit, the listing intermediary is treated as though they are the operator of the electronic marketplace through which the supply of listed services is made, and must meet all the requirements placed on the operator for the flat-rate credit under those provisions for that supply. This means that where a listing intermediary is interposed between a host providing taxable accommodation and an operator of an electronic marketplace, all requirements related to

the flat-rate credit for that supply are imposed on the listing intermediary – including the requirement to deduct input tax for the flat-rate credit and to pass it on to the host, and to provide a statement, at least monthly, to the host showing the amount of flat-rate credit passed on. See “[Flat-rate credit](#)” from page 26 for a full explanation of these provisions.

Treatment of services supplied by listing intermediary directly to guests

In addition to listing or advertising taxable accommodation on an electronic marketplace on behalf of hosts, some listing intermediaries may provide property management services to these hosts. In this situation, it is not uncommon for the listing intermediary to structure its contracts so that services such as cleaning and linen hire are supplied to guests staying at the property (rather than being supplied to the host), for which the guests pay a fee. The fact that there is a separate fee for the listing intermediary’s services on top of the price of the accommodation itself may not be apparent because the marketplace may take and display just one bundled price for the package of services (being taxable accommodation and the listing intermediary’s services).

Under the pre-1 April 2024 GST rules, the listing intermediary (if registered for GST) would have already been accounting for and paying GST to Inland Revenue on its services. However, if the fee charged for the listing intermediary’s services is not known to the marketplace operator and cannot be distinguished from the price of the accommodation, having the marketplace operator account for output tax on the supply of accommodation and the listing intermediary account for output tax on the supply of its services would likely result in double taxation of the listing intermediary’s services.

To address this issue, section 60CB(3) provides that when section 60CB(2) applies to a supply of listed services, a supply of other services by the listing intermediary to the guest through the electronic marketplace is treated as two separate supplies as follows:

- a supply from the listing intermediary to the operator of the electronic marketplace that is zero-rated under section 11A(1)(jd), and
- a supply by the marketplace operator that is subject to GST at the standard 15% rate.

The above rule only applies if section 60CB(2) applies. As discussed below, there may be situations where a listing intermediary is liable for output tax on a supply of taxable accommodation, in which case section 60CB(2) would not apply. In that situation, any services the listing intermediary supplies directly to guests through the electronic marketplace will retain their GST treatment under the normal GST rules, rather than being subject to the rule in section 60CB(3). This means, rather than being treated as making a zero-rated supply of those services to the marketplace operator (and the marketplace

operator being treated as supplying those services to the guest), the listing intermediary's supply to the guest is a single standard rated supply as per the pre-1 April 2024 rules.

If the listing intermediary **is** treated as making a zero-rated supply of the services to the marketplace operator, they are not required to provide taxable supply information to the marketplace operator in respect of this supply.

Because the "other" services supplied by the listing intermediary to the guest (that the listing intermediary is treated as supplying to the marketplace operator) are not "listed services", the provision of these services to the guest does not affect the calculation of the flat-rate credit that the listing intermediary is required to deduct input tax for in its GST return and then pass on to the host. In other words, the amount of flat-rate credit required to be deducted and passed on is based only on the value of the accommodation provided by the host, and does not include the value of the other services provided by the listing intermediary to the guest.

Example 24: Default rules for listing intermediaries

Gordon uses the services of a listing intermediary to manage his property and list it on several electronic marketplaces for short-stay accommodation. Gordon is not registered for GST. The listing intermediary is registered for GST for its property management activity.

Gordon has an agreement with the listing intermediary that his property will be rented out for no less than \$100 per night.

Harriet uses an electronic marketplace to book accommodation in Gordon's property. Harriet pays a total of \$150 plus GST for one night's stay in Gordon's property. This includes \$100 for the accommodation, and \$50 for services supplied to Harriet by the listing intermediary.

The marketplace operator accounts for GST on the supply. It provides Harriet with taxable supply information.

The listing intermediary is deemed to make a supply of the accommodation provided by Gordon to the operator of the electronic marketplace. It is also treated as making a supply of its own services (that it contractually supplies to Harriet) to the marketplace operator. Both deemed supplies are zero-rated, meaning the listing intermediary has output tax of zero for the \$150 of services it is treated as supplying to the operator of

the electronic marketplace. This is because the marketplace operator has accounted for output tax on these supplies at the standard GST rate of 15%.

The listing intermediary is responsible for calculating the flat-rate credit for Gordon. It calculates this based on the value of the accommodation of \$100. It will be responsible for providing Gordon with a statement, at least monthly, showing the flat-rate credit that Gordon received from the listing intermediary.

When listing intermediary is treated as supplier of taxable accommodation

Provided certain conditions are met, a listing intermediary can agree with an operator of an electronic marketplace that they are liable for output tax on accommodation supplied through the electronic marketplace. The agreement between the listing intermediary and the marketplace operator must be recorded in a document.

To be entitled to seek such an agreement, the listing intermediary must:

- be a New Zealand tax resident
- list the accommodation provided by the host on not just one, but multiple electronic marketplaces, and
- enable or facilitate the supply of the accommodation using an electronic system that can facilitate and manage guests' bookings automatically. For example, such an electronic system might include an application programming interface (API) that transmits data or information between the electronic marketplace and the listing intermediary's systems, or property management software that the listing intermediary uses to manage bookings taken via multiple electronic marketplaces.

The intention of the second and third requirements above is to limit the ability for a listing intermediary to obtain such an agreement with a marketplace operator to situations where the listing intermediary is in some ways similar to an operator of an electronic marketplace. The person might even be an operator of an electronic marketplace in certain scenarios, such as where they operate their own website or app through which guests can book taxable accommodation provided by a host. In this situation where a person is both a listing intermediary for some supplies of taxable accommodation and a marketplace operator for other supplies (and would therefore be liable for output tax on those other supplies), the rules allow the person the option of accounting for and paying output tax on supplies for which they are a listing intermediary, subject to the marketplace operator's agreement with this arrangement.

Section 60CB(7) provides that the effect of such an agreement is that the listing intermediary is treated as though they are the marketplace operator for several key provisions in the GST Act related to listed services. This includes section 60C(2)(ab), which is the rule that treats taxable accommodation as supplied by the operator of the electronic marketplace through which the supply of services is made, provided those services are performed, provided or received in New Zealand.

In addition to being treated as the operator of the electronic marketplace for the purposes of section 60C(2)(ab) and the provisions related to the flat-rate credit, the listing intermediary is also treated by section 60CB(7) as though it is the operator of the electronic marketplace for:

- Section 25AAA – where a listing intermediary is interposed between a host and an operator of an electronic marketplace, the listing intermediary must apply the rules for correcting over-deductions or under-deductions of input tax for the flat-rate credit when such inaccuracies are discovered.
- Section 60(1C) – the host is treated as making a supply of listed services to the listing intermediary, which is zero-rated if the host is a registered person, and the listing intermediary is treated as making a standard rated supply of the same services to the guest.
- Section 60C(3B) and (3C) (– the act of a listing intermediary recovering or deducting an amount from a payment due to the host and using this amount to satisfy its output tax liability for a supply it is treated as making does not give rise to any further GST implications.
- Sections 60C(2BB), (2BE), (2BF) and 60H – the various references to the “operator of the electronic marketplace” or “operator” throughout section 60H and in the rules for underlying supplier opt-outs should instead be read as referring to the listing intermediary. Under section 60H, this applies not just for the subsections related to the provision of information by underlying suppliers for the flat-rate credit, but also for the notification rule for unilateral opt-outs (section 60H(3)) where the underlying supplier is able to unilaterally opt out of the electronic marketplace rules because their total annual supplies are more than \$500,000.
- Section 85E – where the listing intermediary is liable for output tax on supplies of taxable accommodation under section 60CB(7), it is eligible to apply the transitional rule for contracts for taxable accommodation entered into before 1 April 2024, provided certain conditions are met.

Where section 60CB(7) applies, the marketplace operator is relieved of all liability under the GST Act for the supply, except for the provision of taxable supply information as discussed below. This means the listing intermediary is liable to account for and pay output tax to Inland Revenue on supplies of taxable accommodation made on or after 1 April 2024.

Providing taxable supply information

Whenever a listing intermediary is interposed between a host and an operator of an electronic marketplace in the supply of taxable accommodation to a guest, the marketplace operator is treated as the supplier of the services for the provision of taxable supply information (even if the listing intermediary is liable for output tax on the supply under section 60CB(7)). This means:

the marketplace operator (not the listing intermediary) is required to issue taxable supply information to the guest under section 19NB in all circumstances, including when section 60CB(7) applies to treat the listing intermediary as making a supply of the services to the guest that is subject to the standard GST rate of 15%, and

- the “supplier’s” details (such as name and GST registration number) the marketplace operator is required to include in the taxable supply information are their own, and not those of the listing intermediary or the host.

Example 25: Listing intermediary is responsible for output tax

Sally uses the services of a listing intermediary to manage her property and list it on multiple electronic marketplaces to maximise her advertising exposure and therefore the number of nights on which the property is booked throughout the year. Sally is not registered for GST. The listing intermediary is registered for GST for its property management activity.

Iona uses one of the electronic marketplaces on which Sally’s property is advertised to book the property for one night. Iona pays a total of \$200 plus GST. This includes \$120 for the accommodation and \$80 for services supplied to Iona by the listing intermediary.

The listing intermediary has a written agreement with the operator of the electronic marketplace that the listing intermediary, rather than the marketplace operator, is liable for GST on any supplies of taxable accommodation that the intermediary lists on the electronic marketplace. This means the listing intermediary (not the electronic

marketplace operator) is the supplier of the accommodation for GST purposes and has the responsibility for returning output tax on the supplies at the 15% GST rate.

The listing intermediary accounts for output tax on the total value of the services supplied to Iona of \$200.

The listing intermediary is also responsible for calculating the flat-rate credit for Sally. It calculates this based on the value of the accommodation of \$120. It is responsible for providing Sally with a statement, at least monthly, which shows the flat-rate credit that Sally received from the listing intermediary.

Even though the marketplace operator is not liable for output tax on the supply of accommodation, it is still responsible for providing taxable supply information to Iona. The marketplace operator includes its own name and GST registration number in the taxable supply information provided to Iona.

Opt-out rules for hosts

A host who is eligible to opt out of the electronic marketplace rules (because more than 2,000 nights of accommodation they provide is listed on an electronic marketplace in a 12-month period, or because their taxable supplies in a 12-month period exceed \$500,000) can still opt out or seek to opt out even if they use a listing intermediary to list the accommodation on the electronic marketplace. In this circumstance, the listing intermediary may need to notify the marketplace operator on the host's behalf that the host is opting out of the rules. If an opt-out agreement with the marketplace operator is required, the listing intermediary may need to liaise between the host and the marketplace operator so the two parties can enter into an opt-out agreement.

Even if a listing intermediary has an agreement with the marketplace operator that they are liable for output tax on the supplies of accommodation that they list on the marketplace, a host that the listing intermediary acts for who wishes to opt out of the rules to remain responsible for their own GST obligations may still be able to do so. In this situation, the host would either notify the listing intermediary they are opting out (if they are opting out because their taxable supplies in a 12-month period exceed \$500,000), or enter into an opt-out agreement with the listing intermediary (if they are seeking to opt out because they meet the "listing more than 2,000 nights of accommodation" criterion).

Transitional rule for taxable accommodation

Section 85E of the GST Act

A transitional issue with the GST rules for listed services may arise for operators of electronic marketplaces and listing intermediaries. The problem may arise when an operator of an electronic marketplace takes an accommodation booking before 1 April 2024 for a host who is not registered for GST. If time of supply occurs on or after 1 April 2024, the default position is that the marketplace operator or listing intermediary will have a GST liability for the supply, even though the price of the accommodation might not have been set with GST in mind.

To address this issue, a transitional rule in section 85E of the GST Act ensures listing intermediaries and operators of electronic marketplaces do not have to account for GST on contracts for taxable accommodation entered into before 1 April 2024, provided certain requirements are met.

Supplies covered by the transitional rule

The transitional rule applies when:

- the supply is of taxable accommodation
- the supply is made through an electronic marketplace
- the supply is made under a contract entered into before 1 April 2024
- the time of supply for that supply takes place on or after 1 April 2024
- an operator of an electronic marketplace or a listing intermediary would be treated by section 60C(2)(ab) as making the supply in the course or furtherance of its taxable activity in the absence of the transitional rule
- the person who would be treated as making the supply chooses that the transitional rule applies, and
- if the host is a registered person (or, as discussed below, in some cases if a listing intermediary is interposed between the host and the operator of the electronic marketplace), the person applying the transitional rule takes reasonable steps within a reasonable timeframe to notify the host or listing intermediary of their decision to apply the transitional rule, and to provide the host with sufficient information for them to correctly account for GST on the supply.

If the above conditions are met, section 85E(2) allows the marketplace operator or listing intermediary to treat the services as not having been supplied by them. The transitional rule

would be applied by not including the relevant supplies in the "Total sales and income" box of the person's GST return, and by not deducting input tax for the flat-rate credit in respect of these supplies. The person does not need to notify Inland Revenue of their choice to apply the transitional rule, but they must keep evidence of their choice for a minimum period of seven years in accordance with the record keeping rules in the GST Act.

As outlined above, the transitional rule only applies if section 60C(2)(ab) would apply in its absence. Section 60C(2)(ab) provides that listed services are treated as supplied by the operator of the electronic marketplace through which the supply of services is made if those services are performed, provided or received in New Zealand.

In some instances, a listing intermediary (rather than the operator of the electronic marketplace) may be treated as making the supply of listed services. Provided certain conditions are met, section 60CB(7) provides that a listing intermediary is treated as the marketplace operator for the purposes of section 60C(2)(ab). This means the transitional rule can only ever be applied if the services would otherwise be treated as supplied in New Zealand by either an operator of an electronic marketplace or a listing intermediary. For instance, it would not be necessary to have the transitional rule apply to supplies by GST-registered hosts who have opted out of the application of the electronic marketplace rule in section 60C(2)(ab) using one of the available opt-out provisions.

Who can choose to apply the transitional rule

Only the person who would be treated as the supplier of the services if section 60C(2)(ab) applied to the supply may choose to apply the transitional rule. In other words, the transitional rule can only ever be applied by an operator of an electronic marketplace or a listing intermediary, and only if that person would otherwise be treated as making the supply.

How the transitional rule applies

When such a person chooses to apply the transitional rule, the choice they are making is that section 60C(2)(ab) does not apply to the supply. This means the rules for electronic marketplaces in section 60C (and, if applicable, the rules for listing intermediaries in section 60CB) do not apply to treat the services as supplied by the person. Instead, the host is the supplier for GST purposes.

This means that:

- A person applying the transitional rule will not account for and pay output tax on the relevant supply to Inland Revenue. All requirements related to the flat-rate credit

(which only apply if section 60C(2)(ab) applies) also do not apply. This means the person applying the transitional rule should not deduct input tax for the flat-rate credit for the supply and pass this on to the host.

- Any output tax liability on the supply remains with the host as per the pre-1 April 2024 rules. The host will only ever be liable to account for and pay output tax on the supply to Inland Revenue if they are a registered person making the supply in the course or furtherance of their taxable activity.

A decision by a marketplace operator or listing intermediary to apply the transitional rule does not change when the supply is deemed to occur. A GST-registered host who is required to account for GST on the supply because of the transitional rule should therefore account for the output tax in their GST return for the taxable period in which time of supply occurred (being the earlier of when a payment was received or an invoice was issued for the supply).

Notification requirements

In situations where the transitional rule is applied for a supply and the host is required to account for and pay GST on the supply to Inland Revenue, the host would need to know they are liable for GST on the supply.

A marketplace operator or listing intermediary who wishes to apply the transitional rule will in some situations only be entitled to do so on the condition they take reasonable steps to notify the host (or listing intermediary) of this decision. This notification must make it clear that the marketplace operator or listing intermediary is not liable for GST on the supply, and that this liability remains with the host. Where this requirement applies, the notification must be made within a reasonable timeframe. The marketplace operator or listing intermediary should also take reasonable steps within a reasonable timeframe to ensure the host has sufficient information to correctly account for GST on the supply to Inland Revenue.

Meaning of "reasonable steps"

There are two scenarios in which notifying the host should be relatively straightforward:

- The first scenario is where an operator of an electronic marketplace would, in the absence of the transitional rule, be responsible for output tax on the supply, and there is no listing intermediary involved in the supply.
- The second scenario is where a listing intermediary would, in the absence of the transitional rule, be responsible for output tax on the supply. In other words, the listing intermediary and the operator of the electronic marketplace through which the

supply is made have an agreement under section 60CB(6) that the listing intermediary is responsible for output tax on supplies of listed services.

In the above scenarios, the person applying the transitional rule must take reasonable steps to notify the host only if the host has told them they are GST-registered. As a result, some marketplace operators and listing intermediaries might only want to use the transitional rule for supplies where they are entitled to assume the host is not a registered person. This approach is acceptable because the transitional rule is intended to be flexible enough to allow marketplace operators and listing intermediaries to apply it for all bookings taken before 1 April 2024 where time of supply occurs on or after that date, or only a subset of those bookings.

The person applying the transitional rule must ensure the information they provide is sufficient for the host to correctly account for output tax on the relevant supplies. There is no requirement for any specific type of information to be provided, only that the information provided must simply be sufficient for this purpose. This is broad enough to include any information the marketplace operator or listing intermediary could share or provide that would enable the host to identify the relevant supplies, so that the host knows those supplies are the ones they need to account for in their GST return. For example, if the marketplace operator or listing intermediary will not be accounting for output tax on any of the host's bookings taken before 1 April 2024, then they could make sure (in addition to telling the host) they provide the host with the dates those bookings were made, or some other statement or notification that a specific booking was made before 1 April 2024.

There is a third possible scenario in which the host might need to be notified that the person is applying the transitional rule. This scenario arises where a booking is made before 1 April 2024 for accommodation that was listed on the electronic marketplace by a listing intermediary and, in the absence of the transitional rule:

- the operator of the electronic marketplace would be liable for output tax on the supply, not the listing intermediary, and
- the listing intermediary would be responsible for all requirements in respect of the supply that relate to the flat-rate credit, if applicable.

This scenario (where the marketplace operator is responsible for output tax and the listing intermediary is responsible for all the requirements related to the flat-rate credit) is the default setting under the rules in section 60CB applying to listing intermediaries. In this default scenario, the marketplace operator (if applying the transitional rule) must take reasonable steps to notify the listing intermediary that they are applying the transitional rule and to provide the listing intermediary with information that is sufficient for GST-registered

hosts to correctly account for output tax on the supplies. The listing intermediary in this scenario should pass the relevant information on to GST-registered hosts within a reasonable timeframe.

The marketplace operator in this scenario must take reasonable steps to provide the information to the listing intermediary regardless of whether the host providing the accommodation is a registered person. This is for two reasons:

1. In this situation, the marketplace operator is unlikely to know anything about the host, including whether they are a registered person.
2. Even if the host is not a registered person, the listing intermediary still needs the same information from the marketplace operator that, if the host was GST-registered, would enable the host to identify the supplies for which it should account for GST to Inland Revenue. In this case, the information will enable the listing intermediary to correctly identify for which supplies it should not deduct input tax for the flat-rate credit. Therefore, the "reasonable steps" requirement to notify the listing intermediary serves a dual purpose.

Meaning of "reasonable timeframe"

A marketplace operator or listing intermediary choosing to apply the transitional rule must take reasonable steps to provide the necessary information to GST-registered hosts and/or to listing intermediaries within a reasonable timeframe. This means the marketplace operator or listing intermediary should make their best endeavours to ensure the information is provided as soon as practicable to allow a GST-registered host to account for output tax on the relevant supplies in the correct GST return, before that return is due to Inland Revenue. At the very latest, Inland Revenue would expect the necessary information to be provided in advance of the due date for the April 2024 GST returns (being 28 May 2024).

Example 26: Marketplace operator applies the transitional rule, host not registered person

In January 2024, Ben books accommodation at a Whangarei bach for several days in December 2024/January 2025 through Marketplace Co, an operator of an electronic marketplace. Will, the host providing the accommodation, is not registered for GST because his supplies are below the registration threshold.

The payment terms allow Ben the option of paying for the accommodation in instalments. Ben pays the first instalment in April 2024. No invoice has been issued, so

this first payment means time of supply occurs in April 2024 when the new GST rules applying to listed services are in force.

Marketplace Co chooses to apply the transitional rule to this supply of accommodation, meaning that Marketplace Co would not account for GST on the supply. Marketplace Co applies the transitional rule by preparing and filing its GST return consistently with this position (that is, by not including the supply in the “Total sales and income” box in its GST return, and by not deducting input tax for the flat-rate credit). Because there is no listing intermediary involved in the supply and Will has not notified Marketplace Co that he is a registered person, Marketplace Co is not required to take reasonable steps to notify Will of the decision to apply the transitional rule.

Example 27: Reasonable steps requirement, no listing intermediary involved

In November 2023, Martin books accommodation at an Auckland bed and breakfast for one night in September 2024 through Marketplace Co. Graeme’s Bed and Breakfast, the host providing the accommodation, is registered for GST but as of April 2024 has not opted out of the electronic marketplace rules.

The payment terms allow Martin to pay in full when he checks in at the bed and breakfast, which he will end up doing. As of April 2024, no invoice has been issued for the supply.

Marketplace Co intends to apply the transitional rule to all bookings made on its website before 1 April 2024 where time of supply will occur on or after 1 April 2024. This includes the booking made by Martin in November 2023.

In early April 2024, Marketplace Co provides communications to Graeme’s Bed and Breakfast explaining that Marketplace Co will not be accounting for and paying GST on bookings taken before 1 April 2024 to Inland Revenue, and that GST on these bookings remains the legal responsibility of Graeme’s Bed and Breakfast. The date on which Martin’s booking was made is visible to Graeme’s Bed and Breakfast via the Marketplace Co platform, so Graeme’s Bed and Breakfast knows that it is required to include the supply in its GST return for the taxable period in which time of supply occurs (being when Martin pays upon checking in at the bed and breakfast if no invoice is issued before then).

Marketplace Co has taken reasonable steps within a reasonable timeframe to notify Graeme's Bed and Breakfast of the decision to apply the transitional rule and to ensure they have sufficient information to correctly account for GST on the supply. Marketplace Co is therefore entitled to apply the transitional rule for the supply.

Example 28: Marketplace operator takes reasonable steps to notify listing intermediary and host

Jacob, a non-GST registered owner of a bach in Timaru, uses a listing intermediary to deal with the day-to-day management of his bach and to list it for short-term rental on the Marketplace Co website. In March 2024, a booking for a stay occurring at the bach for three nights in July 2024 is received through the Marketplace Co platform. Payment for the booking is not made until April 2024 and no invoice is issued before that, so time of supply is deemed to occur in April 2024.

In early April 2024, Marketplace Co provides communications to the listing intermediary explaining that Marketplace Co will not be accounting for and paying GST on bookings taken before 1 April 2024 to Inland Revenue, and that GST on these bookings remains the legal responsibility of the accommodation hosts. In these communications, Marketplace Co advises the listing intermediary that this information will need to be passed on to GST-registered hosts so they can comply with their GST obligations. Marketplace Co also advises the listing intermediary that other relevant information that the GST-registered hosts will need to identify the bookings made before 1 April 2024 should be passed on to them, such as the dates the bookings were made (which is information that is accessible to the listing intermediary through the Marketplace Co platform).

Marketplace Co has taken reasonable steps within a reasonable timeframe to notify the listing intermediary of the decision to apply the transitional rule and to ensure the GST-registered hosts for accommodation listed on the platform by the listing intermediary have sufficient information to correctly account for GST on the supplies.

Because Jacob is not a registered person, the listing intermediary does not need to pass the information provided by Marketplace Co on to him. However, because Marketplace Co notified the listing intermediary that any GST liability for bookings taken before 1 April 2024 will remain with the hosts (instead of those supplies being subject to the new GST rules for listed services) and has provided sufficient information

to the listing intermediary to enable these bookings to be identified, the listing intermediary knows it should not deduct input tax for the flat-rate credit on the supplies.

Consequential amendments

Sections 5(11G), 8C, 10(7D), 15(6), 19NB, 26AA, 51, 60, 60H, 75 and 77 of the GST Act

Several existing provisions affecting operators of electronic marketplaces have been amended to now refer to “listed services”. These amendments are consequential in nature and reflect that the marketplace rules now apply to a new category of services supplied through electronic marketplaces.

GST registration

Section 51 of the GST Act

The rules for listed services require marketplace operators to register for, and return, GST on supplies of listed services that are performed, provided or received in New Zealand if the value of these supplies exceeds, or is expected to exceed, \$60,000 in a 12-month period.

Non-resident marketplace operators can use a fair and reasonable method of converting foreign currency amounts to New Zealand dollars to determine whether they have exceeded the GST registration threshold. This is provided for in section 51.

Generally, the Commissioner is unable to allocate a tax file number (IRD number) to an offshore person, unless they have provided the Commissioner with evidence of their New Zealand bank account number. An exception to this requirement exists where the offshore person needs an IRD number solely because they are a non-resident supplier of goods or services under the GST Act. This exception applies to non-resident suppliers of listed services that would not need to provide evidence of a New Zealand bank account number if the only reason for obtaining a tax file number is so they can comply with their GST obligations.

Taxable supply information

Sections 8C(3)(a)(i) and 19NB of the GST Act

The general rules for taxable supply information require the person making a taxable supply to another registered person to provide the recipient with taxable supply information for the supply. This enables the recipient of the supply to deduct input tax. Under the general rules,

taxable supply information may not need to be provided if the consideration for the supply is below a prescribed threshold.

Despite the general rules for taxable supply information, section 19NB provides that for listed services, taxable supply information (and, if applicable, supply correction information) must be provided to the recipient of the listed services in all circumstances without the need for a request. The purpose of this is to ensure that the recipient of listed services will receive sufficient information enabling them to deduct input tax, if applicable, for listed services they receive. It is also intended to reduce compliance costs for marketplace operators by removing the need for them to have bespoke systems for responding to requests for taxable supply information.

The rules for taxable supply information and supply correction information are explained on Inland Revenue’s website (search keyword: taxable supply information).

Marketplace operators (and in some cases, listing intermediaries) are also treated as receiving supplies of listed services from underlying suppliers that operate through the electronic marketplace. No taxable supply information is required to be provided by underlying suppliers for these supplies under section 8C(3)(a)(i).

Taxable periods

Section 15(6)

Section 15 specifies the taxable periods for GST-registered persons.

The general rules for taxable periods are explained on Inland Revenue’s website.

Section 15(6) provides that a non-resident marketplace operator that is treated as the supplier of listed services will have a quarterly taxable period based on a first quarter ending on 31 March. This means that a non-resident marketplace operator that supplies listed services will have the following taxable periods and due dates.

Table 1: Taxable periods for non-resident marketplace operators

Taxable period	GST payment and return due date
1 January to 31 March	7 May
1 April to 30 June	28 July
1 July to 30 September	28 October

1 October to 31 December	28 January of the following year
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Marketplace operators that are tax resident in New Zealand will be subject to the ordinary rules for taxable periods.

Bad debt deductions

Section 26AA of the GST Act

Marketplace operators may collect GST on a supply of listed services it is treated as making in one of two ways:

- The marketplace operator arranges for the payment from the recipient of the services to be split when the payment is processed, with the amount of GST and the marketplace operator's facilitation fee or commission remitted to the operator, and the sale price (net of GST and the amount of the marketplace's fee or commission on the sale) remitted to the underlying supplier of the services.
- The recipient of the services may pay the underlying supplier directly, and the marketplace operator collects the GST along with its fee or commission from the underlying supplier.

In the second scenario, the marketplace operator may at times be unable to collect the GST from the underlying supplier. To prevent marketplace operators in this situation from being liable for GST that they are unable to collect, section 26AA will allow them to claim a bad debt deduction if:

- the underlying supplier fails to pass on the GST paid to them for the supply; and
- the operator of the marketplace has written off all amounts owed to it for the supply as a bad debt, including its fee or commission on the sale.

This rule will apply to a marketplace operator that is treated as the supplier of listed services if the underlying supplier is not an associated person under section 2A, and the marketplace operator:

- charges the underlying supplier a fee for making the supply through the marketplace
- accounts for GST on the supply and provides a return for the taxable period in which the supply was made
- has an agreement with the underlying supplier under which the underlying supplier is required to pay, from the consideration the underlying supplier receives from the

recipient, an amount that includes the GST on the supply that the marketplace operator has accounted for, and

- the marketplace operator writes off as a bad debt the entire amount that the underlying supplier is required to pay (along with the entire amount of the marketplace's fee, if not already included in this amount).

Section 26AA(2) provides that the marketplace operator may deduct input tax equal to the amount of GST charged on the supply.

If the marketplace operator recovers an amount of the bad debt that was written off in an earlier taxable period, section 26AA(3) requires the marketplace operator to account for an amount of output tax that is a fraction of the amount of the input tax deduction taken earlier. This fraction is calculated by dividing the amount recovered by the total amount written off.

Record keeping

Section 75(3F) of the GST Act

GST-registered persons can apply to the Commissioner for authorisation to keep records at a place outside New Zealand or in a language other than English.

Section 75(3F) overrides this requirement for a non-resident supplier of listed services. This enables non-resident suppliers of listed services to keep records outside of New Zealand or store them in a language other than English without the need for approval from the Commissioner.

Use of foreign currency

Section 77(2) and (3) of the GST Act

Section 77(2) enables non-resident marketplace operators to account for GST on supplies of listed services they are treated as making in a foreign currency at the time of supply. This overrides the general rule that all amounts be expressed in New Zealand currency at the time of supply.

Section 77(3) provides that, when converting foreign currency amounts to New Zealand dollars for determining the amount of GST to be included in the GST return, the marketplace operator can use the foreign exchange rate applying at:

- the date of the supply
- the last day of the relevant taxable period

- the earlier of:
 - the date the marketplace operator files its return for the relevant taxable period, or
 - the due date for filing its return for the relevant taxable period, or
 - another date agreed between the marketplace operator and the Commissioner.

The marketplace operator may not change its currency conversion date for a period of 24 months unless they have agreed otherwise with the Commissioner. For example, it cannot choose to do the currency conversion using the exchange rate applying on the last day of the relevant taxable period if, in its GST return for the previous taxable period, it used the exchange rate applying on the date the return was filed.

New Zealand resident agents

Section 60(1A)(b) of the GST Act

A non-resident supplier of listed services may enter into an agency agreement with a New Zealand resident agent. If this applies, the agent (instead of the non-resident principal) is treated by section 60(1AB) as supplying listed services in the course and furtherance of the agent's taxable activity.

Vouchers

Section 5(11G)(a) of the GST Act

Generally, the issue or sale of a token, stamp or voucher with a face value is treated as a supply of goods and services by the issuer or seller. This applies unless the supplier of the token, stamp or voucher treats the supply as arising on the redemption of the token, stamp or voucher for goods and services. If the supplier of the token, stamp or voucher treats the supply as arising on redemption, the person who redeems the token, stamp or voucher for goods and services is treated as making the supply at the time of redemption, rather than at the time the voucher was issued or sold.

Section 5(11G)(a) has been amended to refer to "listed services" in addition to distantly taxable goods and remote services. This enables the seller of a face value voucher to treat GST as applying on the redemption of the voucher if the voucher is (or could be) redeemed for listed services. This is consistent with how the GST rules for vouchers apply to remote services and distantly taxable goods.

Example 29: Seller of voucher opts to use redemption basis

Charles buys a voucher with a face value of \$100 from Smithy's Siestas Ltd, a popular electronic marketplace through which short-stay accommodation can be booked, as a gift for his daughter, Lucy. The voucher can be redeemed for short-stay accommodation bought through Smithy's Siestas Ltd.

Smithy's Siestas Ltd chooses to treat the supply for GST purposes as a rising on the redemption of the voucher (instead of the sale of the voucher). This means that GST will apply when Lucy redeems the voucher for listed services, and not on the sale or issue of the voucher itself.

Lucy uses the voucher as a credit towards short-stay accommodation she buys through Smithy's Siestas Ltd. Because Smithy's Siestas Ltd is treated as the supplier of the accommodation for GST purposes (rather than the underlying supplier of the accommodation), it is required to return GST equal to \$13.04 ($3/23 \times \100) on the redemption of the voucher.

Discounts

Sections 10(7D) and 20(3N) of the GST Act

Section 10(7D) contains a special valuation rule to deal with the situation where a marketplace operator provides discounts for remote services, distantly taxable goods, or listed services that it is treated as supplying under the marketplace rules.

This special valuation rule provides that where a marketplace operator is deemed to make a supply to a recipient who accepts an offer of a discount funded by the operator, the supply is for the discounted price. This means that the amount of output tax that the marketplace operator is required to return on the supply is $\frac{3}{23}$ of the total GST-inclusive amount paid by the recipient. However, the provision of the discount by the marketplace operator does not affect the calculation of the flat-rate credit for the underlying supplier, which is calculated as 8.5% of the GST-exclusive price the underlying supplier receives.

Example 30: Marketplace operator provides a discount for listed services provided by an underlying supplier

Kelvin is seeking accommodation for two nights for an upcoming trip in Kaikohe. He uses an electronic marketplace, Graeme's Getaways Ltd, to find a bed and breakfast that suits his needs for the weekend trip.

William owns a property in Kaikohe that is regularly booked through Graeme's Getaways Ltd. He sets the price as \$250 per night plus GST. The GST-inclusive price is therefore \$287.50 per night (\$250 + \$37.50 in GST).

Graeme's Getaways Ltd offers a discount of \$10 per night on the accommodation, provided it is booked well in advance of the guest's arrival date. Kelvin accepts this offer, and so the final (GST-inclusive) price paid by Kelvin for the accommodation is \$555. Graeme's Getaways Ltd pays for the discount, so William still receives the GST-exclusive consideration of \$500.

Graeme's Getaways Ltd is required to calculate output tax on the price paid by Kelvin (\$555). It returns output tax on the supply equal to \$72.39 ($\frac{3}{23} \times \555). However, the discount must be ignored when calculating the amount of the flat-rate credit for William. Graeme's Getaways Ltd deducts input tax for the flat-rate credit of \$42.50 ($8.5\% \times \500) and passes this amount on to William.

About this document

Special reports are published shortly after new legislation is enacted or Orders in Council are made to help affected taxpayers and their advisors understand the consequences of the changes. These are published in advance of an article in the *Tax Information Bulletin*.