

**EXPOSURE DRAFT - FOR COMMENT AND DISCUSSION ONLY | HUKIHUKI HURANGA
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DRAFT INTERPRETATION STATEMENT | PUTANGA WHAKAMĀORI

GST – Secondhand goods input tax deduction

Issued | Tukuna: Issue date

PUB00514

This interpretation statement discusses the requirements that must be met for a registered person to claim a secondhand goods input tax deduction. This includes, among other things, a discussion of the requirement that the goods be secondhand and the meaning of secondhand. This interpretation statement also discusses exceptions and restrictions on the amount of secondhand goods input tax deduction that can be claimed, including where the supplier and the recipient are associated persons.

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

REPLACES | WHAKAKAPIA

- GST: claims for secondhand goods input tax credits on property transactions between associated persons. *Tax Information Bulletin* Vol 5, No 11 (April 1994).
- GST – the definition of secondhand goods. *Tax Information Bulletin* Vol 6, No 5 (November 1994).
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Notes | Pitopito kōrero: some topics we are interested in hearing your view on include:

- whether a newly subdivided area of land can be secondhand;
- when collectibles will be secondhand;
- whether a new good created from an old good will be secondhand;
- how wide is the definition of “livestock” (excluded from secondhand goods);
- new section 3A(3BB);
- the avoidance provision in s 3A(3B);
- the difference between “consideration” and “purchase price”; and
- the meaning of “original purchase price” and whether a deduction can include the cost of improvements

Introduction | Whakataki

1. This interpretation statement discusses the requirements that must be met for a registered person to claim a secondhand goods input tax deduction for goods that they acquire for the taxable activity.
2. Among other things, the discussion covers the requirement that the goods be secondhand and the meaning of secondhand. This interpretation statement also discusses exceptions and restrictions on the amount of secondhand goods input tax deduction that can be claimed, including if the supplier and the recipient are associated persons.
3. Secondhand goods input tax deductions can be claimed on the acquisition of a good only if the supply of the good is not a taxable supply. As the supply is not taxable, the supplier does not charge GST on the supply of the good. Nevertheless, the recipient can be allowed a secondhand goods input tax deduction for an imputed amount.
4. By allowing a deduction for secondhand goods in this way, the Act operates on an assumption that, despite GST not being charged on the supply in question, GST will have been incurred earlier by the supplier on their inputs, and that this GST effectively is embedded in the cost of the secondhand goods.¹

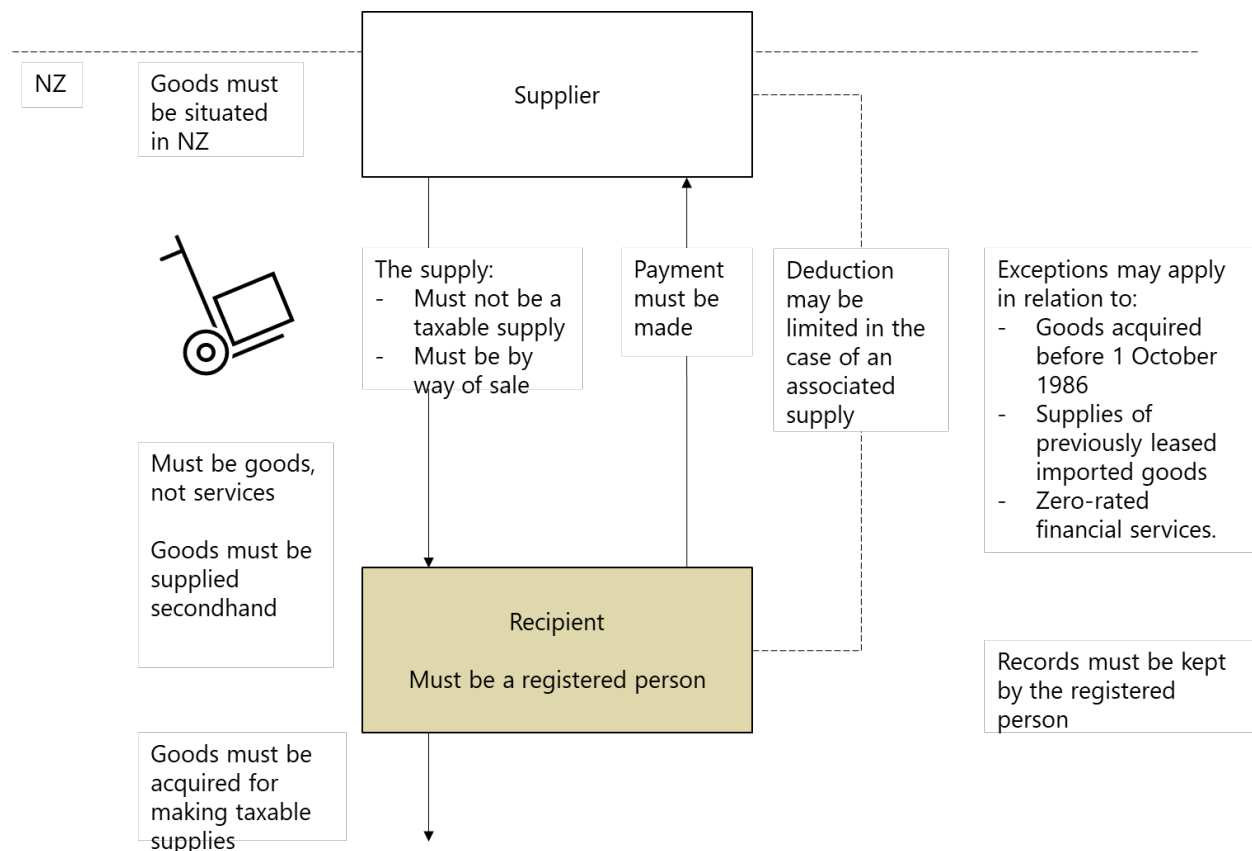
¹*Glenharrow Holdings Ltd v CIR* [2008] NZSC 116, (2009) 24 NZTC 23,236 at [46]. This assumption will not always be true, which is why some limits on deductibility are imposed, for example, in the case of associated supplies (see from [117]).

Analysis | Tātari

Requirements for a secondhand goods input tax deduction

5. In calculating the amount of tax payable for a period, a registered person can claim deductions for input tax if certain requirements are met.²
6. There are standard input tax deduction requirements that apply to the acquisition of any goods or services (including secondhand goods) and specific requirements that apply in the case of secondhand goods.
7. The requirements are illustrated in Diagram | Hoahoa 1.

Diagram | Hoahoa 1 - Requirements



Standard input tax deduction requirements

8. Standard input tax deduction requirements include that the:

² Sections 3A(2) and 20(3).

- person claiming the input tax deduction must be a registered person (see [12]); and
 - goods or services must be acquired for making taxable supplies (see [15]).
9. This statement does not discuss these requirements in detail. This statement focusses on the secondhand goods input tax deduction requirements.

Secondhand goods input tax deduction requirements

10. Specific secondhand goods input tax deduction requirements include the following:
- The goods acquired must be secondhand goods. See [16].
 - The supply of the goods to the person must have been by way of sale. See [78].
 - The goods must have been “situated in New Zealand” at the time of supply. See [83].
 - The supply must not have been a taxable supply. See [85].
 - A payment must have been made for the supply in the taxable period. A secondhand goods input tax deduction in a taxable period is allowed only to the extent that a payment has been made during that taxable period for the supply. See [98].
 - Certain records must be kept of the supplies received.³ See [102].
11. Exceptions, which prevent a secondhand goods input tax deduction, apply in relation to:
- goods acquired before 1 October 1986 (see [104]);
 - supplies of previously-leased imported goods (see [106]); and
 - zero-rated financial services (see [109]).

The person claiming the input tax deduction must be a registered person

12. To claim an input tax deduction, the person claiming the input tax deduction must be a registered person.⁴

³ Section 19H prescribes record-keeping requirements for secondhand goods input tax deductions.

⁴ In s 3A input tax is defined “in relation to a registered person”. Further, s 20, which discusses the calculation of tax payable, allows a “registered person” to deduct tax.

13. A person may be liable to be a registered person or they may voluntarily register. In either case, to be a registered person, a person must either be carrying on a taxable activity or intend to carry on a taxable activity.⁵
14. For guidance on whether a taxable activity exists, see [PUB00476](#): GST – taxable activity.⁶

Acquired for making taxable supplies

15. To claim an input tax deduction for the acquisition of goods or services, the goods or services must:
 - be used for, or be intended to be used in, making taxable supplies;⁷ or
 - have been acquired for the principal purpose of making taxable supplies if s 20(3CC) applies (this can apply in relation to goods or services acquired for \$10,000 or less (excluding GST)).⁸

Secondhand goods

16. The term “secondhand goods” is defined,⁹ but the definition contains only exclusions (discussed below).
17. Therefore, the term must be interpreted based on the meaning of the two words. For a secondhand good to exist, there must be a supply of goods, as defined in the Act, and the goods must be secondhand.¹⁰ The meaning of goods and secondhand are discussed below.

Goods

18. “Goods” is defined in s 2:

goods means all kinds of personal or real property; but does not include choses in action, money, cryptocurrency, or a product that is transmitted by means of a wire, cable, radio, optical or other electromagnetic system or by means of a similar technical system

⁵ Section 51.

⁶ PUB00476: GST – taxable activity (draft interpretation statement, Inland Revenue, February 2025).

⁷ Under s 20(3C)(a), a deduction is allowed only to the extent to which the goods or services are used for, or are intended to be used in, making taxable supplies.

⁸ Section 20(3CB) and (3CC).

⁹ Section 2.

¹⁰ In *Case V9* (2001) 20 NZTC 10,101 at [198], the Taxation Review Authority described the term as a composite one.

19. "Real property" is a legal term used to describe land and things growing in or attached to the land, or rights over the land.¹¹ Therefore, land is a good for the purposes of the Act. Land includes specific interests or rights in land; for example, a forestry right.
20. "Personal property" is property that is not classified as real property. It includes movable items.
21. "Goods" does not include choses in action. A chose in action is an intangible right that has no existence apart from the recognition given by the law or that confers no present possession of a tangible object. For example, the right to recover a debt is a chose in action.
22. Although not common, some things are treated as being neither real nor personal property, so are excluded from the definition of goods. For example, as discussed in [BR Pub 15/01 and BR Pub 15/02: Secondhand goods input tax deductions – fishing quota, coastal permits and certificates of compliance](#),¹² under s 122 of the Resource Management Act 1991, coastal permits and certificates of compliance (types of resource consent) are deemed not to be "personal or real property". This means coastal permits or certificates of compliance are not "goods", so cannot be supplied as secondhand goods.

Secondhand

The Commissioner's view

23. The Commissioner's view of the meaning of secondhand is as follows:
 - The concept of secondhand is flexible.
 - Under the ordinary meaning, a good is secondhand when acquired if it is not acquired from the original source (in other words, if it has been previously owned) or has been previously used.
 - Case law has held that a good is secondhand if it has been used or treated or stored by a previous owner in such a manner that it can no longer be regarded as new.
 - "Use" in this context means being used for the good's intrinsic purpose as opposed to being used as trading stock, for example.

¹¹ *Dictionary of New Zealand Law* (LexisNexis).

¹² BR Pub 15/01 and BR Pub 15/02: Secondhand goods input tax deductions – fishing quota, coastal permits and certificates of compliance *Tax Information Bulletin* Vol 27, No 2 (March 2015): 3.

- If a good is acquired from the producer of the good, the good will not be secondhand unless the producer has used the goods themselves (use as trading stock does not count). This is because the producer is the original source.
- A good is not secondhand merely because it has passed from the producer through the hands of a wholesaler, distributor or retailer of the good, unless one of these persons acquired the good to use themselves (again, use as trading stock does not count). It would be unnatural to describe a good being supplied through such a person as being supplied by the person secondhand.
- A good will be secondhand when supplied by a person if the person produced or acquired the good intending to use the good themselves (as opposed to producing or acquiring the good as trading stock). In this case, a good can be secondhand even if the person has not used the good. As noted above, the concept of secondhand is flexible and a good is secondhand if it has been used or treated or stored by a previous owner in such a manner that it can no longer be regarded as new. If they actually use the good, it is secondhand on that basis as well. This is illustrated in Example | Tauira 1 and Diagram | Hoahoa 2.

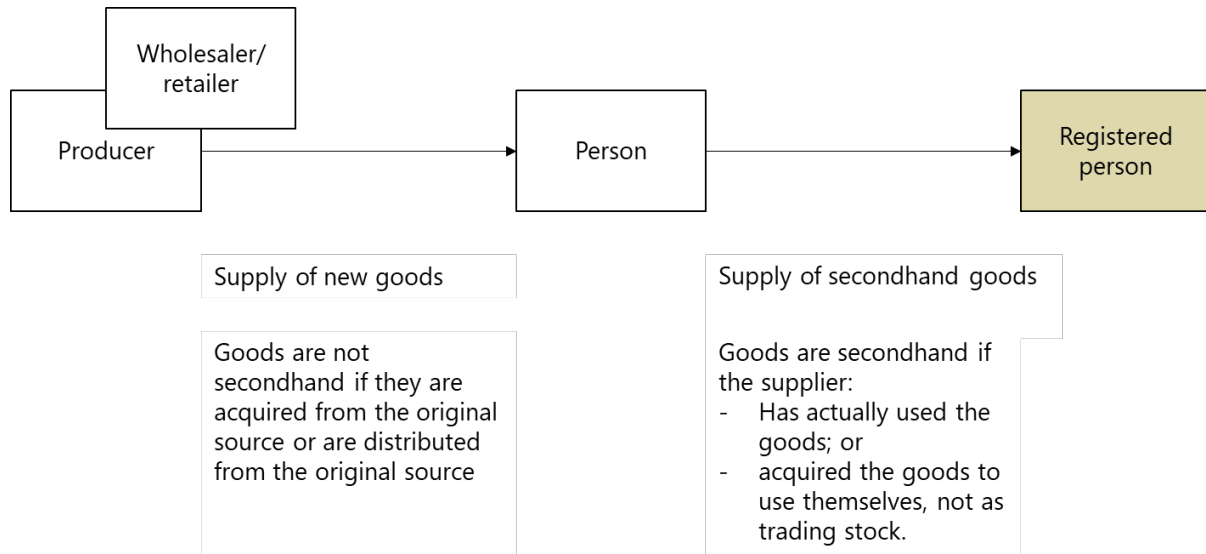
Example | Tauira 1 – Meaning of secondhand

ABC Wines recently ceased its GST registration. Before it ceased its registration, ABC Wines purchased a new bottling machine. The machine is still in its shipping container and hasn't been used. On cessation, ABC Wines was deemed to make a supply of all its assets, including the bottling machine.

Subsequently, as an unregistered person, ABC Wines sells the bottling machine to another wine maker, XYZ Wines.

XYZ Wines is able to claim a secondhand goods input tax deduction. The machine is secondhand because of ABC's previous ownership. Previous ownership is relevant here because ABC acquired the machine to use itself.

Diagram | Hoahoa 2 - Supply of secondhand goods



24. The reasons for the Commissioner's view are discussed below.

Ordinary meaning

25. The *Oxford English Dictionary* defines the adjective "secondhand" as "Not original or obtained from the original source" or "not new, having been previously used or worn by another".¹³

Case law

26. One of the key cases on the meaning of secondhand is *Case N16*.¹⁴ Comments in this case can be taken out of context, so it is helpful to discuss the case in some detail below.

27. In *Case N16*, the Taxation Review Authority (TRA) was required to determine whether deer velvet purchased from an unregistered person was secondhand goods. The TRA concluded that the deer velvet was not a secondhand good when supplied by farmers or hunters to the wholesalers. The TRA stated from 3,147:

In this case, a farmer or a hunter has obtained the deer antlers (when in velvet) of young deer and sliced them up and frozen them. I understand that they were then parcelled as one would parcel meat. Then these people called "commission buyers" acquire the product from the farmer, or the hunter, and deliver it to the exporter or wholesaler, - in this case, the objector. At that point it is possible to regard the product, due to the way it

¹³ The *Oxford English Dictionary* (online, accessed on 19 June 2025) defines the adjective "secondhand" as "Not original or obtained from the original source" or "Not new, having been previously used or worn by another". See also *Case N16* (1991) 13 NZTC 3,142 (TRA) at 3,147.

¹⁴ *Case N16* (1991) 13 NZTC 3,142 (TRA).

has by then been handled, as secondhand, but I would regard this as an unnatural interpretation. The word "secondhand" as an adjective to "good" or "goods" means, in my view, that in some way or another the item has been used or treated or stored by a previous owner in such a manner that it can no longer be regarded as new. Items in a retail shop are regarded as new, but they have quite possibly passed through a number of hands prior to being available at retail. Items in the shop of a secondhand dealer are regarded as secondhand, because they have been used for their intrinsic purpose by at least one prior owner; and even items which are in new condition will then be regarded as secondhand.

In my view, primary produce is not normally referred to as secondhand because its use is that of consumption. Nevertheless, it may be appropriate to refer to produce or manufactured food items as secondhand in certain contexts, possibly for instance, at some type of clearance sale on behalf of a liquidator or receiver, or after a fire. However, generally speaking, I take the view that primary produce, such as deer velvet, is not being sold on a secondhand goods basis when it is acquired by a distributor or exporter from a farmer or hunter, whether or not through the use of a commission agent.

I agree with counsel that the concept of secondhand relates to pre-ownership or pre-use. I agree with Mr Brownie that the emphasis is on pre-use. I consider that there is quite some commonsense flexibility in ascertaining whether a good is still new or has become secondhand. I do not regard second ownership as necessarily rendering an item secondhand. Many goods pass from manufacturer to wholesaler to retailer to customer or consumer (with other levels of distributors sometimes also involved), and yet are not regarded as secondhand at the consumer purchase level, even though the item has been used as stock-in-trade at the various distribution levels. The good is not usually regarded as secondhand until it has been used for its intrinsic purpose. The concept of secondhand is inappropriate to produce, because use of produce is usually by human consumption whereafter the good is no longer in existence. Deer velvet is desired by some people for consumption. Indeed, it is consumed for desire.

28. The TRA stated that:

- The concept of secondhand is flexible.
- A good is secondhand if it has been used or treated or stored by a previous owner in such a manner that it can no longer be regarded as new.
- The concept of secondhand relates to pre-ownership or pre-use.
- The emphasis is on pre-use. This does not mean that pre-ownership is irrelevant.
- Pre-ownership (or second ownership) does not necessarily cause an item to be secondhand. Again, this does not mean that pre-ownership is irrelevant.
- A good is not usually regarded as secondhand until it has been used for its intrinsic purpose.
- The concept of secondhand is inappropriate for produce, because produce is usually used through human consumption, after which the good no longer exists.

- It may be appropriate to refer to produce or manufactured food items as secondhand in certain contexts, possibly for instance, at some type of clearance sale on behalf of a liquidator or receiver, or after a fire.
29. The TRA's comments about pre-ownership not causing a good to be secondhand were made in the context of the pre-ownership of the goods by the farmers and hunters. This is consistent with the TRA's suggestion that, when the deer velvet was sold to the wholesalers, it would be an unnatural interpretation to regard the good as being secondhand. It is also consistent with the TRA's comments that items in a retail shop are regarded as new, notwithstanding that they have possibly passed through a number of hands prior to being available at retail. In the Commissioner's view, once the goods are supplied to a person who intends to use the goods themselves, the goods may be secondhand if subsequently supplied by the person. This is illustrated in Example | Tauira 1.
30. The TRA also stated that the emphasis is on pre-use and that a good is not usually regarded as secondhand until it has been used for its intrinsic purpose. In the Commissioner's view, the TRA was not suggesting a good would need to actually be used for it to be secondhand. The TRA made the statement that the emphasis is on pre-use in the context of a preceding comment on the use of goods as trading stock in the various distribution levels.
31. In the Commissioner's view, a good will be secondhand when supplied by a person if the person produced or acquired the good intending to use the good themselves (as opposed to producing or acquiring the good as trading stock). In this case, a good can be secondhand even if the person has not used the good. As noted above, the concept of secondhand is flexible and a good is secondhand if it has been used or treated or stored by a previous owner in such a manner that it can no longer be regarded as new. If they actually use the good, it is secondhand on that basis as well.
32. The TRA's comment on primary produce is discussed later at [53].
33. Another case that considered the meaning of secondhand goods is *LR McLean*.¹⁵ In *LR McLean*, the Court of Appeal considered whether wool merchants were allowed a secondhand goods input tax deduction for wool purchased from unregistered suppliers.
34. The facts in *LR McLean* and *Case N16* are similar in that both involved the supply of goods from producers. As noted above, it would be an unnatural interpretation of the word secondhand, to describe a supply of goods from a producer (an original source) as a supply of secondhand goods.

¹⁵ *LR McLean & Co Ltd v CIR* (1994) 16 NZTC 11,211 (CA). See also *Case T28* (1997) 18 NZTC 8,197 (TRA).

35. However, *LR McLean* is notable for a purpose argument made by the taxpayers and the Court of Appeal's reaction to the argument. In *LR McLean*, the taxpayers argued that to accord with the scheme and purpose of the legislation the expression "secondhand good" must be given the meaning of any goods that have been purchased by a registered person (whether they fall within the ordinary meaning of secondhand or not). The crux of the taxpayer's argument was that the GST regime and, in particular, the input tax credit mechanism, is designed to ensure double tax is not assessed on the same added value.
36. The Court of Appeal agreed that in general the GST regime ties the tax liability of a registered person to the value added by the person and that the input tax mechanism in the Act generally ensures tax neutrality. However, the court stated that it cannot be said that the statutory scheme does not provide cases of double tax liability. The court referred to the example of a supply of services by an unregistered person to a registered person, which also does not qualify for input tax and can result in double tax. The court stated that crucially Parliament chose the concept of secondhand goods as the yardstick for allowing input tax deductions. The court noted that Parliament could have used "goods" without the qualifying adjective "secondhand" in para (c) of the definition of input tax, which would have ensured the tax neutrality of purchase transactions by registered persons liable for GST. However, Parliament elected not to do so. Therefore, the term must be given appropriate meaning.
37. The meaning of secondhand is illustrated in Example | Tauira 1.

Impact on previous guidance

38. This draft interpretation of secondhand is different in some respects from previous guidance in:
- **Question we've been asked: Funeral expenses paid by funeral directors in connection with funeral arrangements**,¹⁶
 - **BR Pub 07/01: Forestry rights — secondhand goods GST input tax deduction**,¹⁷

¹⁶ Questions we've been asked: Funeral expenses paid by funeral directors in connection with funeral arrangements *Tax Information Bulletin* Vol 13, No 8 (August 2001).

¹⁷ BR Pub 07/01: Forestry rights – secondhand goods GST input tax deduction *Tax Information Bulletin* Vol 19, No 3 (April 2007): 4.

- [BR Pub 15/01 and BR Pub 15/02: Secondhand goods input tax deductions – fishing quota, coastal permits and certificates of compliance.](#)¹⁸

Funeral expenses – flowers purchased from unregistered suppliers

39. With respect to the question we've been asked in relation to funeral expenses, it is important to note that normally funeral directors act as agents for their customers (meaning the customers are treated as acquiring any goods), so the issue of whether flowers are secondhand goods does not arise. Nevertheless, it was stated in the guidance that:

Even if funeral directors acquired services as principals, input tax credits are not allowable on services supplied by non-registered persons. An input tax credit may be allowable on the sale of "secondhand goods" by non-registered persons to funeral directors as principals. **"Secondhand goods" are goods which have been previously owned and used for their intrinsic purpose by a previous owner:** *Case N16* (1991) 13 NZTC 3,142; *L R McLean & Co Ltd v CIR* (1994) 16 NZTC 11,211. For example, **flowers would not be "secondhand goods" for GST purposes since their previous use for their intrinsic purpose would normally result in their no longer being regarded as new.** Therefore, an input tax credit would not be allowable to funeral directors on flowers acquired from a non-registered person, whether acquired by funeral directors as a principal or agent. [Emphasis added]

40. The Commissioner's position in relation to this scenario has not changed, but it could be better described as follows. Flowers will not normally be supplied secondhand because they will normally be acquired from the producer, either direct or through a distribution chain. Also, a person who acquires the flowers to use themselves (rather than as trading stock) will normally not resell the flowers. Normally, the flowers will be used once before being discarded or donated.

Forestry rights

41. In BR Pub 07/01, it was held that the supply of a forestry right could be a supply of secondhand goods as long as the previous owner has used the forestry right for its intrinsic purpose, namely has exercised some of the rights provided by the forestry right, for example, by establishing, maintaining, or harvesting trees.
42. There is a slight change in the Commissioner's position on this point. Based on the interpretation of secondhand discussed above, when a forestry right is first created and supplied by the creator (person A) to a recipient (person B) (without being used by the creator), the forestry right would not be secondhand because the forestry right would

¹⁸ BR Pub 15/01 and BR Pub 15/02: Secondhand goods input tax deductions – fishing quota, coastal permits and certificates of compliance *Tax Information Bulletin* Vol 27, No 2 (March 2015): 3.

be supplied by the creator of the forestry right (the original source). However, assuming person B acquired the forestry right to use themselves, a subsequent supply of a forestry right (by person B) could be a supply of a secondhand good (based on person B's previous ownership of the forestry right). For the forestry right to be secondhand, person B would not need to exercise any of the rights provided by the forestry right, for example, by establishing, maintaining or harvesting the trees, (although if they have, then the forestry right would be secondhand on the basis of both their previous use and previous ownership). However, again, this assumes person B acquired the forestry right to use themselves.

Fishing quota, coastal permits and certificates of compliance

43. The interpretative position in this statement also differs from some comments made in the commentary to BR Pub 15/01 and 02. We would now express things differently. However, this does not have any effect on the application of the rulings in BR Pub 15/01 and 02 because the rulings did not turn on whether the relevant supplies were of secondhand goods.

44. In the commentary to BR Pub 15/01 and 02, *Case N16* and *LR McLean* were discussed. In relation to *Case N16*, the commentary stated:

Judge Barber considered that previous ownership of goods is not in itself necessarily sufficient to meet the test of secondhand in the GSTA. **Usually, a previous owner must have also used the goods for their intrinsic purpose.** [Emphasis added]

45. In relation to *LR McLean*, the commentary stated:

The judgments of the Court of Appeal state that the term "secondhand" should be given its ordinary or normal meaning. While "secondhand" can mean pre-owned or pre-used, **the Court concluded that it is not sufficient that the goods were previously owned.** If an item were "secondhand" simply through being previously owned, the term "secondhand" would be deprived of any practical meaning according to Richardson J. Therefore, the Court of Appeal concluded that the more relevant factor is whether the goods have been previously used.

The effect of this is that **the courts have not extended the meaning of the term "secondhand goods" to goods that have been previously owned but not previously used** for their intrinsic purpose. [Emphasis added]

46. The commentary arguably creates an impression that a good cannot be secondhand on the basis of previous ownership. However, neither *Case N16* nor *LR McLean* held that a good could not be secondhand on the basis of previous ownership. For example, in *LR McLean* the Court of Appeal stated that:

Although the term can be used of goods that have been previously owned even if not used, prior ownership does **not always** have the effect of making goods “secondhand”. The ordinary meaning of the term is accurately summarised in the passage cited from Barber DJ in *Case N16*, and the construction which he adopted is that approved by Greig J in the present case. No one using the term “secondhand” in its ordinary meaning would apply it to wool sold to a merchant in the circumstances of the sales which are the subject of these proceedings. [Emphasis added]

47. The courts have applied the ordinary meaning of secondhand, which includes something that is previously owned or previously used. Some previous ownership (including the previous ownership of a producer, wholesaler, distributor or retailer) could be disregarded under the ordinary meaning, but this does not mean that previous ownership is never relevant. Goods that have never been used can be secondhand under the ordinary meaning based on previous ownership, for example, if a person buys a good to use in their taxable activity, but their plans change, and they instead sell the good.

Land can be a secondhand good

48. In case law, it appears to be accepted that land can be a secondhand good.¹⁹ Land, being real property, is a good. Further, most land will have been previously used. Even if the land is vacant and hasn’t been used for anything by a supplier, at some point in the past before the supplier acquired the land, it is likely to have been used for something.
49. However, it is possible to create new legal interests in land from existing legal interests. For example, an area of land can be subdivided into smaller areas, or a forestry right could be granted from an existing interest in land.
50. In the case of a simple subdivision, it might be argued that the new legal interests in land, created from the subdivision, are different from the interests in the original property. These new legal interests in land would, at least at first, not be previously used and would be supplied from an original source. From this, it might be argued that the new interests in land are not secondhand when they are first supplied. However, stepping back and considering the ordinary meaning of secondhand in the context of land, few people would describe an area of land that has recently been subdivided from a larger area as being new or unused land, merely because new legal interests have been created. This may be because, with a simple subdivision, the legal rights in the land are largely the same with the only significant difference being the areas of land to which the rights relate. Therefore, in the case of a simple subdivision,

¹⁹ That land can be a secondhand good was accepted in *Case L108* (1989) 11 NZTC 1,608 (TRA) and *Case N13* (1991) 13 NZTC 3,105 (TRA). Some doubt was expressed in *LR McLean and King v Bennetts* (1994) 16 NZTC 11,370 (CA), but in *CIR v Coveney* (1995) 17 NZTC 12,193 (CA), Richardson J appeared to accept that the resale of land is a sale of a secondhand good.

a newly subdivided lot can still be regarded as secondhand. This is illustrated in Example | Tauira 2.

Example | Tauira 2 – Simple subdivision of land

An unregistered person owns a house with a large section.

The unregistered person subdivides the property creating a front section with the house and a rear section of bare land.

The person then immediately sells the rear section to a registered person, who sometime later (on a change in use of the land – see [143]) uses the section for making taxable supplies in a home business.

The registered person may be able to claim a secondhand goods input tax deduction. Under the ordinary meaning of secondhand, most people would still regard the land as secondhand when it was acquired despite the creation of a new legal title for the land.

51. In contrast, in the case of more specific right in land, it is arguable that something new is created – something that cannot be described as secondhand. It is considered that a forestry right (when first supplied) is an example of this (see [41]).
52. If there is a new interest in land (for example, a forestry right), the general approach discussed at [0] applies.

Primary produce is generally not secondhand

53. A supply of primary produce, such as fruit, vegetables, eggs or honey, is generally not a supply of secondhand goods.
54. In *Case N16*,²⁰ the TRA stated that the concept of secondhand is inappropriate for produce, because produce is usually used through human consumption, after which the good no longer exists.
55. In the Commissioner's view, produce will normally be supplied by the producer, either directly or via a distribution chain, so the goods will not normally be secondhand based on pre-ownership. Once acquired by a person who intends to use the goods themselves, as noted by the TRA, the goods will normally be consumed and cease to exist. They will not normally be supplied again, or at least not in the same form.
56. In *Case N16*, the TRA also stated it may be appropriate to refer to produce or manufactured food items as secondhand in certain contexts, possibly for instance, at some type of clearance sale on behalf of a liquidator or receiver, or after a fire.

²⁰ Discussed at [26].

57. This was an *obiter dictum* comment by the TRA (which means it is not binding), and it is difficult to reconcile with the ordinary meaning of secondhand. In the Commissioner's view, goods would not be secondhand merely because they are sold on behalf of a liquidator or receiver, or after a fire. This is because the source of the goods is unchanged, and there is no change in terms of whether the goods are used.
58. Similarly, a supply of the fleece or wool of an animal is generally not a supply of secondhand goods because it will normally be supplied by the producer, either direct or through a distribution chain, and these goods are normally used once before being consumed or transformed into new goods (for example, by being cleaned, carded and spun into yarn).
59. A supply of some plant materials, for example flowers²¹ or firewood, is generally not a supply of secondhand goods for similar reasons.
60. This is illustrated in Example | Tauira 3.

Example | Tauira 3 - Primary produce is generally not secondhand

Zaid has a small rural property with a row of exotic trees he would like to replace with native planting. Zaid cuts the trees cut down and sell them to a firewood company.

Zaid also has some timber that he purchased that he was going to use to build a shed, but he changed his mind and instead sold the timber to a secondhand building materials company.

Zaid is not registered for GST.

The felled trees are not secondhand as Zaid is the original source of the trees, and the felled trees have never been used. Therefore, the firewood company is not able to claim a secondhand goods input tax deduction for the felled trees.

The timber is secondhand on the basis of Zaid's previous ownership. Therefore, the secondhand building materials company can claim a secondhand goods input tax deduction.

Collectibles

61. It is considered that a supply of collectibles (for example, coins, stamps, vintage toys, trading cards or comic books) can be a supply of secondhand goods based on previous ownership or previous use.

²¹ See Questions we've been asked: Funeral expenses paid by funeral directors in connection with funeral arrangements *Tax Information Bulletin* Vol 13, No 8 (August 2001): 9.

62. As discussed at [0], a good is secondhand when supplied by a person if the person produced or acquired the good intending to use the good themselves (as opposed to producing or acquiring the good as trading stock). In this case, a good can be secondhand even if the person has not used the good. As noted above, the concept of secondhand is flexible and a good is secondhand if it has been used or treated or stored by a previous owner in such a manner that it can no longer be regarded as new. If the person actually use the good, it is secondhand on that basis as well.
63. Collectables will not be secondhand when supplied by a producer. They also will not be secondhand if supplied from a producer through other persons in a distribution chain.
64. When supplied by a collector, a collectible will generally be supplied secondhand because:
- the collector is not the original source;
 - collectors generally acquire collectibles for themselves or as a long-term investment, not as trading stock; and
 - even if a collector does not use a collectible (for example, if a good is simply purchased and displayed or stored in its original packaging), the collector's ownership generally means that the collectible can no longer be regarded as new.
65. This is illustrated in Example | Tauira 4.

Example | Tauira 4 – Collectibles may be secondhand goods

Sarah has a collection of Beanie Babies purchased between 1994 and 1999. They are all in their original packaging and are in good condition. In 2025, Sarah, who is not GST registered, sells her collection to an antique dealer, who is registered for GST, for \$2,000.

The Beanie Babies are supplied as secondhand goods based on Sarah's previous ownership of the Beanie Babies. Previous ownership is relevant in this case because Sarah acquired the items for herself (to hold as collectible items), rather than as trading stock.

Therefore, the antique dealer can claim a secondhand goods input tax deduction for the Beanie Babies.

Newly made goods

66. Newly made goods are not secondhand because they have not been previously used. This is illustrated in Example | Tauira 5.

Example | Tauira 5 – Newly made goods

Jamie makes jam that she sells to a gift shop. Jamie is not registered for GST.

The gift shop is not able to claim a secondhand goods input tax deduction for the jam purchased from Jamie. This is because the jam is a newly made good purchased from an original source and the jam has never been used before, so is not secondhand.

New goods created from old

67. If a good is materially altered, it can become a new good – one that is recognised as having a separate existence for GST purposes.²² The new good created in this way is not secondhand because it is a distinct good that has not been previously used. This is illustrated in Example | Tauira 6. See also Example | Tauira 3.

Example | Tauira 6 – New goods created from old

Howard, who is not registered for GST, salvages used wine barrels from a winemaker friend. Howard cuts the barrels in half, drills drainage holds and sands the cut edges. He then sells what he has made to his local garden centre as planter boxes.

Howard has materially altered the wine barrels and has created new goods (planter boxes) that have a separate existence for GST purposes. Because the planter boxes have not been previously used, they are not secondhand. Therefore, the garden centre is not able to claim a secondhand goods input tax deduction.

Goods excluded from definition of secondhand goods

68. “Secondhand goods” is defined in s 2 to exclude certain goods

secondhand goods, does not include—

- (a) secondhand goods consisting of any fine metal; or
- (b) secondhand goods which are—
 - (i) manufactured or made from, or to the extent to which they are manufactured or made from, gold, silver, platinum, or other substance, that would be fine metal if it were of the required fineness; and
 - (ii) of a kind not manufactured for sale to the public; or
- (c) livestock

²² *Case 4/2013* [2013] NZTRA 04; (2013) 26 NZTC 2,003 (TRA).

Fine metal

69. "Secondhand goods" does not include secondhand goods consisting of any "fine metal". Fine metal is defined and includes:
- gold of a fineness of not less than 99.5%;
 - silver of a fineness of not less than 99.9%; and
 - platinum of a fineness of not less than 99%.
70. Fine metal is excluded because a subsequent supply of these goods would be either exempt from GST or zero-rated.²³
71. "Secondhand goods" also does not include goods to the extent that they are composed of gold, silver or platinum and the goods are of a kind not manufactured for sale to the public, for example an alloy of lesser fineness. These goods are excluded from the definition of secondhand goods to protect the integrity of the fine metal exclusion. This is illustrated in Example | Tauira 7.

Example | Tauira 7 – Fine metal exclusion

Loki has a quantity of fine metal (gold) that he supplies to an unregistered person for \$10,000. No GST is charged because a supply of fine metal is an exempt supply.

The unregistered person melts the gold down and creates an alloy of gold and zinc comprising 98% gold (which is no longer fine gold). The unregistered person then sells the alloy back to Loki for \$10,000.

Loki tries to claim a secondhand goods input tax deduction of \$1,304.35 on the full cost of the alloy. However, Loki's claim is largely disallowed. Loki's allowable secondhand goods input tax deduction is limited to \$26.09 – being the imputed GST on the \$200 non-gold portion of the alloy.

72. Goods manufactured or made of gold, silver or platinum and of a kind manufactured for sale to the public are not excluded. This means jewellery, for example, can be a secondhand good. Supplies of these types of goods present a lower risk to the integrity of the fine metal exclusion.²⁴ This is illustrated in Example | Tauira 8.

²³ A supply of fine metal will be either an exempt supply under s 14(1)(e) or zero-rated under s 11 in the case of the first supply of newly refined fine metal.

²⁴ New Legislation *Tax Information Bulletin* Vol 29, No 5 (June 2017): 30 at 78.

Example | Tauira 8 – Jewellery can be a secondhand good

A jewellery store buys used jewellery from customers. These purchases are not taxable supplies if, for example, the customers are not GST registered or if the supplies are of personal items that are not made in the course or furtherance of a taxable activity.

The jewellery store buys an 18-karat wedding band from a non-registered customer for \$250 to on-sell. The jewellery store can claim a secondhand goods input tax deduction of \$32.61 ($\$250 \times 3/23 = \32.61) on this purchase.

Livestock

- 73. "Livestock" is not defined in the Act.
- 74. The ordinary meaning of livestock is domestic animals kept on a farm for use or profit.
- 75. However, case law suggests livestock can include all live animals, including for example fowl, bees and fish, if they formed part of the assets of a business.
- 76. The livestock exclusion was enacted as an integrity measure as some taxpayers were claiming a secondhand goods input tax deduction for the offspring of their existing livestock. It was difficult for the Commissioner to distinguish between offspring and livestock acquired from other people. Therefore, all livestock was excluded.
- 77. Examples of livestock in New Zealand could include (this is not an exhaustive list) sheep; goats; pigs; cattle; deer; chickens and other poultry; emus and ostriches; alpacas and llamas; horses, including horses that are kept for the purposes of racing or breeding (bloodstock); bees; working dogs; and pets purchased for resale.

Supply by way of sale

- 78. For a person to claim a secondhand goods input tax deduction on the supply of goods to them, the supply must have been by way of sale.
- 79. The purpose of this requirement is not entirely clear, but commentary released after this requirement was enacted in 1989 indicates that the amendment was intended to exclude supplies by way of lease or distribution.²⁵
- 80. Other supplies that may not be made by way of sale include a transfer of property to an administrator or executor on the death of a person and subsequent distributions from the administrator or executor to beneficiaries, certain trust distributions and resettlements, and certain transfers pursuant to a relationship property agreement.

²⁵ Part III: Goods and Services Tax Amendment Act 1989 *Public Information Bulletin* Vol 181 (June 1989).

These supplies might be excluded from being supplies of secondhand goods for other reasons as well, for example, because the supplies do not involve consideration.

81. A compulsory acquisition can be a supply by way of sale. See **QB 13/03**: Goods and services tax – whether a compulsory acquisition of land is a “supply by way of sale”.²⁶
82. This requirement is illustrated in Example | Tauira 9 and Example | Tauira 10.

Example | Tauira 9 – No secondhand goods input tax deduction for supply by way of lease

A GST registered farmer leases 20 hectares of land from their neighbour who is not registered for GST. The farmer uses this land for additional grazing in their farming business.

Land is a good and, therefore, could be a secondhand good. However, the farmer is not allowed a secondhand goods input tax deduction because the land is not supplied by way of sale.

Example | Tauira 10 - No secondhand goods input tax deduction for transfers to or from deceased's estate

Graeme owned a small area of land with a workshop that he used for doing up cars and other hobbies. Graeme was not registered for GST.

Graeme has recently died, and ownership of the workshop property passed to the executor of his estate before being distributed by the executor to one of Graeme's children. Graeme's child, who is registered for GST, intends to use the property for making taxable supplies.

The transfer of ownership to Graeme's estate is not a supply by way of sale, so the estate cannot claim a secondhand goods input tax deduction.

The distribution of the property to Graeme's child is also not a supply by way of sale, so Graeme's child is also not able to claim a secondhand goods input tax deduction.

It is also noted that for GST purposes, the transfers occur for no consideration,²⁷ so even if there was no supply by way of sale requirement, the available deduction would be zero.

²⁶ QB 13/03: Goods and services tax – whether a compulsory acquisition of land is a “supply by way of sale” *Tax Information Bulletin* Vol 25, No 7 (August 2013): 97.

²⁷ The supplies are not treated as being made at market value under s 10(3). The supplies are not associated supplies. A deceased person and their estate, and the estate and a beneficiary, are not

Situated in New Zealand

83. For a person to claim a secondhand goods input tax deduction on the supply of goods the goods must be situated in New Zealand at the time of supply.
84. Where goods situated outside New Zealand are purchased and then imported into New Zealand, the importer may be charged GST by the New Zealand Customs Service and be allowed a deduction under s 3A(1)(b), but the secondhand goods input tax deduction is not involved.

The supply must not have been a taxable supply

85. For a purchaser to claim a secondhand goods input tax deduction, the supply to the purchaser must not be a taxable supply.²⁸
86. A supply is not a taxable supply if it is:²⁹
- not made by a registered person;
 - an exempt supply;
 - not made in the course or furtherance of a taxable activity; or
 - not made in New Zealand.

Supply is not made by a registered person

87. For a purchaser to claim a secondhand goods input tax deduction, the supply to the purchaser must not be a taxable supply. A supply is not a taxable supply if it is not made by a "registered person".³⁰
88. The term registered person includes a person who is liable to be registered, even if they have not applied to be registered or have not been registered by the Commissioner.³¹
89. This is illustrated in Example | Tauira 11.

associated persons. The mere fact a person has died, and an executor or administrator has been appointed to manage their estate does not give rise to a trust relationship of settlor and trustee, or trustee and beneficiary. For a transfer made subject to a testamentary trust, see s 10(3A).

²⁸ Section 3A(2)(a).

²⁹ Definition of "taxable supply" in s 2, and s 8.

³⁰ Section 8(1).

³¹ Definition of "registered person" in s 2.

Example | Tauira 11 – Supplier liable to be a registered person

Satoji likes to work on cars. He regularly buys cars, completes repairs and then sells them for a profit. In the current month, and in the preceding 11 months, Satoji made supplies of cars totalling \$80,000. Satoji intends to continue this activity at this level in the next 12 months.

Satoji sells one of the cars to a GST-registered used-car dealer for \$11,500 including GST (if any). At the end of the month when preparing the GST return, the manager of the used-car dealer considers whether they can claim an input tax deduction on the purchase of the car.

Satoji has not applied to be registered for GST, but he is potentially liable to be registered. A person who is liable to be registered is a registered person, even if they have not applied to be registered or have not been registered by the Commissioner. If Satoji is a registered person, the used car dealer is unable to claim a secondhand goods input tax deduction.

The manager knows Satoji has been selling a few cars lately, so suggests Satoji check whether he is liable to register.

Satoji realises he became liable to register for GST four months ago and applies to the Commissioner for registration. The Commissioner registers Satoji for GST from the date he was first liable to be registered.

Satoji then issues the used car dealer taxable supply information for the supply of the car.

Satoji is liable to return GST of \$1,500 ($\$11,500 \times 3/23$) on the supply of the car and the used car dealer can claim a standard input tax deduction for this GST.

The supply is an exempt supply

90. For a purchaser to claim a secondhand goods input tax deduction, the supply to the purchaser must not be a taxable supply. A supply is not a taxable supply if it is an exempt supply.

Supply by non-profit body of donated goods

91. One example of an exempt supply is supply by a non-profit body of donated goods and services (this kind of supply is exempt even if the non-profit body is registered for GST).³²

³² Section 14(1)(b).

92. If a registered person purchases goods from a non-profit body that were donated to the non-profit body, the purchaser may be able to claim a secondhand goods input tax deduction. This is illustrated in Example | Tauira 12.

Example | Tauira 12 – Supply by a non-profit body of donated goods

Paws and Claws Trust is a non-profit body that catches and re-homes feral kittens. The trust is registered for GST.

The trust receives a donation of a used car. The car is not suitable for the trust's activities, so the trust lists the car for sale. In its advertisement, the trust notes, "GST Registered person? This is a donated good – a secondhand input tax deduction may be available".

Cleo, who is registered for GST, is looking to buy a used car for use in her accounting business. She finds two cars she could buy: the trust's car and a car being sold by a used-car dealer. She slightly prefers the trust's car. The trust has listed its car for \$15,000 (with no GST because the supply of the car is not taxable) and the used car dealer has listed its car for \$15,000 including GST.

Preferring the trust's car and knowing she can claim a secondhand goods input tax deduction, Cleo chooses to purchase the trust's car.

Property used for exempt supplies of accommodation

93. The sale of a property by a GST registered supplier can be an exempt supply if the property was used by the supplier for exempt supplies of accommodation for at least five years immediately before the sale.³³ Because the supply is exempt and, therefore, not taxable, a registered person who purchases such a property for making taxable supplies (for example, if the property was used as a business premises rather than being used for exempt supplies of accommodation) could potentially claim a secondhand goods input tax deduction. This is illustrated in Example | Tauira 13.

Example | Tauira 13 – Property used for exempt supplies of accommodation for at least five years

Agnes decides to start a cattery business. She purchases a residential property, which she will convert into a cattery. Agnes has registered for GST and has purchased the property for making taxable supplies in the course of her planned taxable activity.

³³ Section 14(1)(d).

The supplier of the property is registered for GST, but the property was rented as a residential dwelling for the last seven years. Because of this prior use, the supply is not taxable, so the vendor does not include GST in the purchase price.

Agnes' conveyancing lawyer checked the GST treatment with the vendor's lawyer, so Agnes is aware of the previous use and is aware it means she can claim a secondhand goods input tax deduction for the purchase of the property.

Supply not made in the course or furtherance of a taxable activity

94. For a purchaser to claim a secondhand goods input tax deduction, the supply to the purchaser must not be a taxable supply. A supply is not a taxable supply if it is not made in the course or furtherance of the taxable activity the supplier carries on.³⁴ This is illustrated in Example | Tauria 14.

Example | Tauria 14 – Supply not made in the course or furtherance of a taxable activity

Ethan is a contractor who supplies services to a government department. Because of the amount he invoices the department each year, he is registered for GST.

Ethan has a car that he uses privately. He does not use it for making his supplies.

Ethan sells his car to a used car dealer for \$11,500. The supply of the car is not made in the course or furtherance of Ethan's taxable activity because the car was not part of the activity. Therefore, despite Ethan being registered for GST, the supply of the car is not a taxable supply, and Ethan does not need to charge GST on the supply.

The used car dealer can claim a secondhand goods input tax deduction of \$1,500 ($\$11,500 \times 3/23 = \$1,500$) on the purchase of the car.

Supply not made in New Zealand

95. For a purchaser to claim a secondhand goods input tax deduction, the supply to the purchaser must not be a taxable supply. A supply is not a taxable supply if it is not made in New Zealand.³⁵

³⁴ Section 8.

³⁵ Section 8.

96. Whether a supply of goods is made, or treated as being made, in New Zealand depends on various factors:³⁶
- If the supplier is resident in New Zealand, then the supply is made in New Zealand.
 - If the supplier is not resident in New Zealand and the goods:
 - **are not** in New Zealand at the time of supply, then the supply is not made in New Zealand and, therefore, is not a taxable supply, but in that case, a secondhand goods input tax deduction would not be available because of the separate requirement for the secondhand goods input tax deduction that goods are situated in New Zealand (see [83]);³⁷
 - **are** in New Zealand at the time of supply, and if the supply is made to a registered person for the purposes of carrying on the registered person's taxable activity (which is required anyway for the secondhand goods input tax deduction), then the goods and services are treated as being supplied outside New Zealand, unless the supplier chooses to treat the supply as made in New Zealand.
97. This means it is possible for a supply by a non-resident of goods situated in New Zealand to be treated as not supplied in New Zealand and, therefore, for the supply to not be a taxable supply. In this situation, the purchaser of the goods could potentially claim a secondhand goods input tax deduction. This is illustrated in Example | Tauria 15.

Example | Tauria 15 – Supply not made in New Zealand

Mei is non-resident and has equipment in New Zealand that she sells to Melanie, a registered person who acquires the equipment for the purposes of carrying on a taxable activity.

Mei does not choose to treat the supply as made in New Zealand. Therefore, the supply of the equipment to Melanie is treated as being made outside New Zealand and is not a taxable supply.

Because the supply is not a taxable supply, Melanie is able to claim a secondhand goods input tax deduction for the equipment.

³⁶ Section 8(2) to (4).

³⁷ Section 3A(2).

Payment

98. Section 20(3) allows a deduction “to the extent that” a payment in respect of a supply has been made during the taxable period.
99. If part of the payment has been made during a taxable period, a deduction is allowed in the period for that part.
100. The meaning of payment is discussed in **PUB00520: GST – meaning of payment**.³⁸ PUB00520 discusses the meaning of payment for the purposes of the Act generally. The meaning of payment is also relevant in other contexts, including for rules that apply to persons who account for GST on a payments or hybrid basis, and for the time of supply rules.
101. The meaning of payment can be summarised as follows:
- A payment can be made with money or by transferring property or providing services (for example, a company could make a payment by issuing shares in itself to a supplier).
 - Payment can be made using a promissory note or a bill of exchange. A mere acknowledgement of debt is not sufficient.
 - Payment will not be made if the purchase price for the supply of goods or services is simply deferred or left owing under the supply agreement.
 - Payment could be made by the purchaser borrowing an amount under a separate agreement with the supplier (or another person) and using the amount borrowed to satisfy the payment obligation under the supply agreement. By doing this, payment will be made for GST purposes, even though the purchaser will still owe the supplier an amount under the separate loan agreement.
 - Payment for a supply could be made by set-off against an existing debt owed by the supplier to the recipient. For example, if the supplier owed the recipient an amount under an existing debt, the amount payable by the recipient for the supply could be offset against the amount owed by the supplier to the recipient.
 - Accounting entries can provide at least some evidence that a payment has occurred. However, accounting entries may not always be sufficient. The absence of accounting entries does not mean a payment has not been made. However, depending on other evidence available, the timing of the accounting entries could influence the determination of when the payment was made.
 - The payment of a deposit under an agreement constitutes a payment.

³⁸ [Draft interpretation statement, add reference once known]

- Where the recipient of a supply makes a payment to a stakeholder, they have made a payment for GST purposes. Where a supplier receives a payment in the capacity as stakeholder, they will not receive the payment for GST purposes until they receive a beneficial interest in the payment (that is, when the conditions of the supply contract are satisfied).

Records required

102. For a person to claim a secondhand goods input tax deduction on the purchase of a secondhand good, they must have a record of the supply showing:³⁹
- the name and address of the supplier;
 - the date on which the secondhand goods were supplied;
 - a description of the secondhand goods;
 - the quantity or volume of the secondhand goods; and
 - the consideration for the supply.
103. This requirement does not apply to a supply if the consideration for the supply is equal to or less than \$200.

Exception – goods acquired before 1 October 1986

104. A registered person is not allowed a secondhand goods input tax deduction for the purchase of goods if the purchase is of goods that were acquired before 1 October 1986 by the registered person or, more likely, by a person who, when acquiring the goods, was associated with the registered person.⁴⁰ This is illustrated in Example | Taura 16.
105. However, this does not apply if the goods have been owned, on or after 1 October 1986, by a person who, at the time, was not the registered person and was not associated with the registered person. This is illustrated in Example | Taura 17.

Example | Taura 16 – Associated supplier who purchased the land before 1 October 1986

Jim is Barry's father. Jim purchased a block of land in 1982. Jim, who is not registered for GST, recently sold the land to Barry.

³⁹ Sections 19H and 20(2)(c). See also New Legislation *Tax Information Bulletin* Vol 34, No 5 (June 2022): 3 at 159.

⁴⁰ Section 3A(2)(ab).

Barry, who had been born when Jim bought the land in 1982, is registered for GST and has purchased the land to make taxable supplies.

Barry is not allowed a secondhand goods input tax deduction for the land. This is because Jim purchased the land before 1 October 1986 and Barry and Jim were associated persons when Jim purchased the land.⁴¹

Example | Taura 17 – Intervening non-associated person owner

The trustees of the Wensleydale Trust purchased a block of land in 1984.

Patricia is a beneficiary of the Wensleydale Trust and has been since before the land was purchased in 1984.

In 1987, the trustees of the trust sold the land to Henry, another beneficiary of the trust and Patricia's cousin. Recently, Patricia purchased the block of land from Henry, who is not a registered person. Patricia and Henry are not associated persons (association between relatives extends only to the second degree of relationship, cousins are separated by four degrees). Patricia is registered for GST and has purchased the land to make taxable supplies.

Patricia is potentially able to claim a secondhand goods input tax deduction. Despite being associated with the trustees of the trust when the land was purchased in 1984 (before 1 October 1986), someone else, who Patricia was not associated with, has owned the land since 1 October 1986.

Exception – supply of previously-leased imported goods

106. A purchaser is not allowed a secondhand goods input tax deduction if the exception described below applies. The exception applies where:⁴²

- a non-resident lessor supplies goods by way of lease to a New Zealand resident lessee who is registered for GST;⁴³

⁴¹ Section 2A(1)(c)(i).

⁴² Section 3A(2)(b). The wording of s 3A(2)(b) does not refer to a supply by way of lease. However, this is the intended application of the imported goods exception, which was discussed in New Legislation *Tax Information Bulletin* Vol 24, No 10 (December 2012): 18 at 39. The application to a supply by way of lease followed by a supply by way of sale is also consistent with the split between subparas (i) and (ii) of s 3A(2)(b).

⁴³ The exception also applies if the New Zealand recipient is not registered when the goods are imported (so does not claim an input tax deduction for the customs GST), but later registers for GST and claims an input tax deduction under s 21B for a change in use of the goods.

- the lessee imports the goods into New Zealand; and
- the lessor⁴⁴ later sells the goods to a New Zealand resident purchaser.

107. This is illustrated in Diagram | Hoahoa 3.

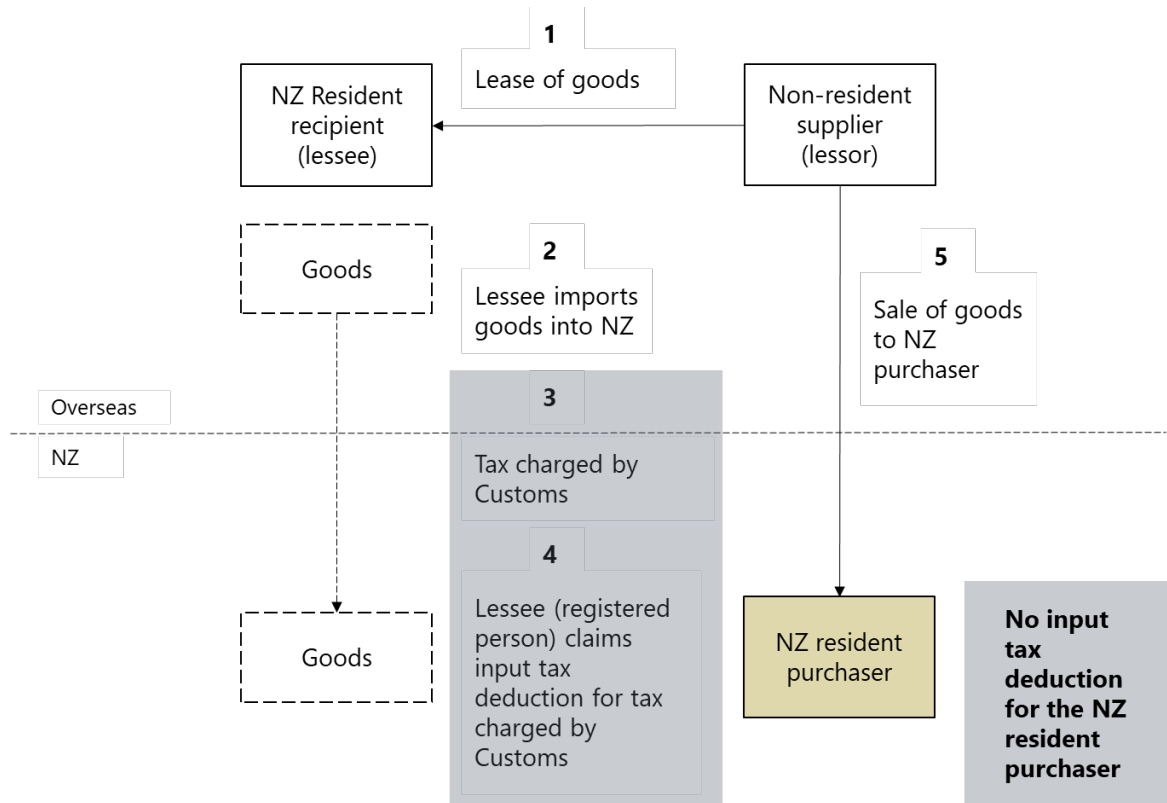
108. In this situation, the exception prevents the New Zealand resident purchaser from claiming a secondhand goods input tax deduction. This is to prevent two input tax deductions being claimed when only one amount of tax is charged. This can be explained as follows:

- Tax is charged by the New Zealand Customs Service when the goods are imported.
- Tax might not be charged on the supply by the non-resident lessor to the New Zealand-resident purchaser. This is because the supply might be treated as not being made in New Zealand.⁴⁵
- The lessee, who imported the goods, may have claimed an input tax deduction for the customs GST paid.
- In the absence of the exception, the New Zealand-resident purchaser could potentially claim an additional input tax deduction – in the form of a secondhand goods input tax deduction (given the supply by the lessor to the New Zealand resident purchaser is not a taxable supply and the goods are situated in New Zealand).

⁴⁴ The imported goods exception also applies if the non-resident lessor has sold the goods to another non-resident who sells the goods to the New Zealand resident purchaser.

⁴⁵ Under s 8(4). The requirements of the subsection could be satisfied because the lessor is non-resident, the goods are supplied to the New Zealand resident purchaser for the purposes of carrying on their taxable activity, and the lessor may not have chosen to treat the supply as made in New Zealand.

Diagram | Hoahoa 3 – Supply of previously-leased imported goods



Exception – zero-rated financial services

109. A person is not allowed a secondhand goods input tax deduction if the goods are acquired for making taxable supplies of financial services that are zero-rated under s 11A(1)(q) or s 11A(1)(r). This exception does not apply if, before the acquisition, the goods have never been owned or used by the purchaser or an associated person.⁴⁶
110. The purpose of this exception is to prevent large one-off input tax credits from the transfer of existing assets (for example, land) from an entity that is exempt to an associated entity that will use the assets to make zero-rated taxable supplies.⁴⁷

⁴⁶ Section 3A(2)(c). The wording of s 3A(2)(c) is not entirely clear. However, the context suggests that subparas (i) and (ii) of s 3A(2)(c) concern the subsequent taxable supplies that a person makes, not the supply to the person for which the secondhand goods input tax deduction is sought. This is supported by the context provided by the secondhand goods input tax deduction requirement that the supply is not a taxable supply – if a supply is not a taxable supply, there would be no occasion for the supply to be zero-rated. See also A McKenzie, *GST: A Practical Guide* (e-book, 10th ed, CCH, 2017) at 312.

⁴⁷ See Taxation (Annual Rates, GST, Trans-Tasman Imputation and Miscellaneous Provisions) Bill: Commentary to the Bill (Policy and Advice Division, Inland Revenue, June 2003) at 4.

Restrictions on the amount of deduction allowed

111. The secondhand goods input tax deduction a person can claim on a supply they receive is based on the amount of "input tax" for the supply. In the case of secondhand goods input tax deductions, input tax is an imputed amount.
112. The amount⁴⁸ of input tax depends on whether the:
- person and supplier are associated persons;⁴⁹
 - supplier is deemed to have made a supply of the goods under s 5(3) (s 5(3) deems a person to make a supply of goods forming part of their taxable activity if they cease to be a registered person); and
 - supply is the only matter to which consideration provided relates.
113. Situations involving these factors are discussed below.

Supplier and recipient are not associated

114. If the supplier and the recipient are not associated, the calculation of input tax for a supply depends on whether the supply is the only matter to which the consideration provided by the recipient relates.
115. Sometimes a single amount of consideration is provided for the supply of a good and for something else without specifying how much is paid for the supply of the good and how much is paid for the other thing. In these situations, the input tax for the supply of the good is the tax fraction⁵⁰ of the open market value of the supply. This is illustrated in Example | Tauira 18.
116. If the consideration is provided for the supply of the good only, the input tax is the tax fraction of the consideration.

Example | Tauira 18 – Consideration provided for a supply of a good and for something else

Keith, who is not registered for GST, sells a secondhand bandsaw to James and agrees to provide James four hours of valuable woodworking instruction. Keith and James are

See also Taxation (Annual Rates, GST, Trans-Tasman Imputation and Miscellaneous Provisions) Bill: Officials' report to the Finance and Expenditure Committee on submissions on the Bill (Policy and Advice Division, Inland Revenue, and The Treasury, October 2003) at 20.

⁴⁸ This is often referred to as the quantum of input tax allowed.

⁴⁹ The meaning of "associated persons" is discussed at [135].

⁵⁰ The meaning of "tax fraction" is discussed at [111]. It is generally 3/23, reflecting the current GST tax rate of 15%.

old friends, so Keith gives James a discount, charging him \$1,000 for both the saw and the training (with no breakdown of how much is paid for the saw and for the training). James treats \$800 of the amount paid to Keith as the purchase price of the saw and \$200 as a fee for the training. The open market value of the saw is \$900.

James is registered for GST and acquires the bandsaw and the training to make taxable supplies in his joinery business.

James can potentially claim a secondhand goods input tax deduction for the purchase of the bandsaw. However, the input tax for this supply is limited to \$104.35, the tax fraction of the \$800 purchase price allocated to the saw ($\$800 \times 3/23 = \104.35).

Supplier and recipient are associated, no deemed supply under s 5(3)

117. If the recipient and the supplier are associated persons and the supplier is not deemed to have made a supply of the goods under s 5(3), the amount of input tax is the lowest of:⁵¹

- either:
 - if the supplier also received the goods from an associated person, the amount given by s 3A(3BB);⁵² otherwise
 - the tax fraction⁵³ of the original purchase price⁵⁴ of the goods when they were received by the supplier (that is, the purchase price for the supplier's acquisition of the goods);⁵⁵
- the tax fraction of the purchase price,⁵⁶ and
- the tax fraction of the open market value of the supply.

118. This is illustrated in Diagram | Hoahoa 4 and Example | Tauria 19.

⁵¹ Section 3A(3)(a).

⁵² Section 3A(3BB) is discussed at [120].

⁵³ Depending on when the goods were received by the supplier, the tax fraction could be 3/23, 1/9 or 1/11. See from [111].

⁵⁴ The meaning of "original purchase price" is discussed at [129].

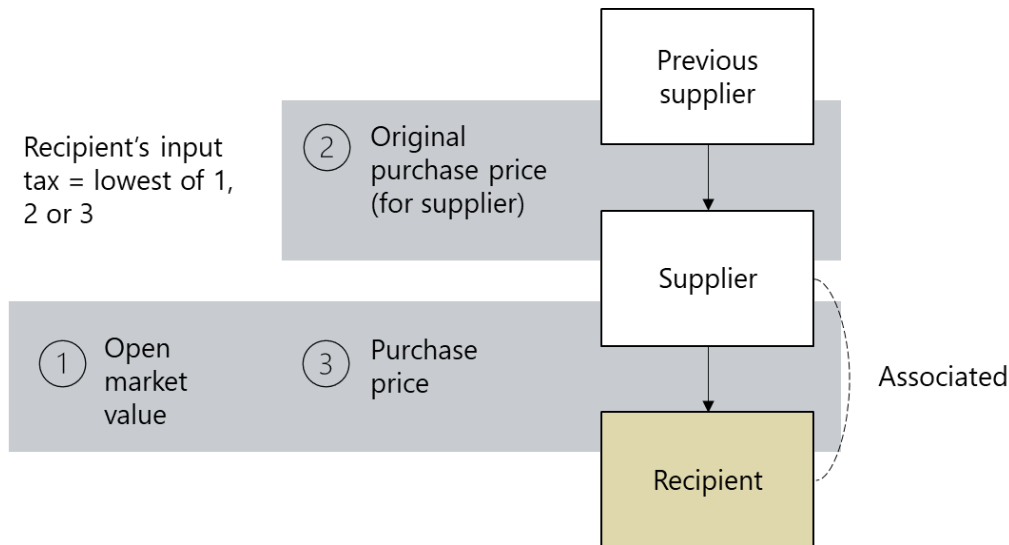
⁵⁵ Section 3A(3)(a)(i). This subpara has been amended several times. Before 30 March 2022, it referred to "the tax included in the original cost of the goods to the supplier", which is quite different from the current wording, which can include an imputed amount. Under the current wording, if the supplier had acquired the goods from an unregistered person, there could be an imputed amount given by the tax fraction of the original purchase price paid by the supplier.

The tax fraction given by s 3A(3BB) is discussed at [120].

⁵⁶ The meaning of "purchase price" is discussed from [123].

119. For the avoidance of doubt, if the original purchase price of the goods when they were received by the supplier was zero, then the input tax deduction will be zero. For example, if the supplier received the goods as a distribution from a trust, the input tax deduction for the associated person who acquires the goods from the supplier would be zero.

Diagram | Hoahoa 4 – Input tax where supplier and recipient are associated, no s 5(3) supply



Example | Tauira 19 – Land sold to associated company

In 2025, Henry sold a block of land to a company for \$1.5 million (this is also the open market value of the land). Henry had a 30% voting interest in the company when he sold the land.

Henry had bought the land from a non-registered third party for \$1.3 million two years earlier with the intention of building a house and living on the land. However, for the last two years, Henry has just been leasing the land to a neighbour for grazing. Henry has never been registered for GST and was not liable to be registered when he sold the land.

At the time of the supply, Henry and the company were associated persons because Henry had voting interests of 25% or more in the company.

The amount the company can claim is the lowest of the tax fraction of the:

- \$1.3 million original purchase price Henry paid for the land;
- \$1.5 million purchase price the company pays to Henry; and
- \$1.5 million open market value of the land.

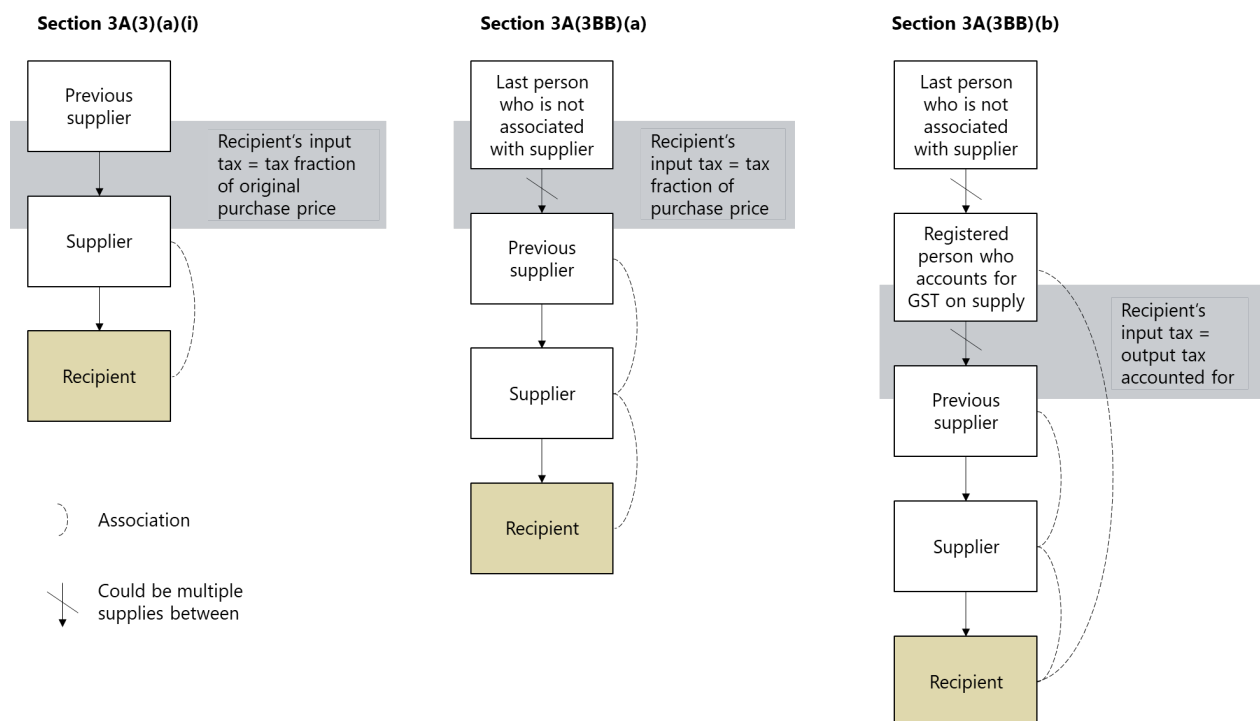
Therefore, the amount the company can claim is 3/23 of \$1.3 million, which is \$169,565.22.

The company can claim a deduction for an imputed amount despite GST not being charged on the supply from the third party to Henry.

Where the supplier also received the goods from an associated person – s 3A(3BB)

120. Section 3A(3BB) applies if the supplier also received the goods from an associated person. In this case, the amount of input tax is generally the tax fraction of the purchase price of the goods when they were last supplied by a person who is not associated with the supplier. A different input tax amount applies if, after the last supply by a person who is not associated with the supplier and before the associated supply being considered, the goods were supplied by a registered person associated with the supplier and the registered person accounted for output tax on the supply. In that case, the amount of the input tax is an amount equal to the amount of output tax accounted for. This is illustrated in Diagram | Hoahoa 5 and Example | Tauira 20.

Diagram | Hoahoa 5 – Where the supplier also obtained the goods from an associated person – s 3A(3BB)



Example | Tauira 20 – Multiple associated supplies

In 2008, Kaea bought an apartment for \$300,000 from her friend Travis.

Kaea has two daughters, Kara and Koa.

In 2010, Kaea settled the apartment on a family trust. Kaea was trustee and Kara and Koa were beneficiaries of the trust.

In 2015, the family trust sold the apartment to Kara for \$350,000.

In 2025, Kara sold the apartment to her younger sister Koa for \$500,000.

None of Travis, Kaea, the family trust or Kara was registered for GST. However, Koa is registered, and she intends to use the apartment to make taxable supplies in her physiotherapy practice.

Koa can claim a secondhand goods input tax deduction for the purchase of the apartment, but the amount is limited to \$33,333.33, the tax fraction of the purchase price Kaea paid for the apartment ($\$300,000 \times 1/9 = \$33,333.33$).⁵⁷

Section 3A(3BB)(a) applies because Koa acquired the apartment from an associated person (her sister Kara) and Kara also acquired the apartment from an associated person (the trustee of the family trust). Koa is associated with the family trust and her mother Kaea, so Travis was the last person who was not associated with Kara. This means the input tax for the supply made by Kara to Koa is calculated based on the tax fraction of the purchase price Kaea paid to Travis.

Variation

This variation uses the same facts as above except Kaea registered the family trust for GST, as trustee carried on a taxable activity from the apartment and, when the apartment was sold, accounted for \$45,652.17 of GST on the supply of the apartment to Kara.

In this case, Koa's secondhand goods input tax deduction is limited by the \$45,652.17 of output tax accounted for by the family trust when it supplied the apartment to Kara.

Supply involving land and an arrangement with more than two associated parties and more than one supply

121. An exception to s 3A(3)(a) applies if a supply wholly or partly consists of land and is part of an arrangement involving more than two associated parties and more than one supply.⁵⁸ In this case, the input tax for the recipient is limited by the amount accounted for as output tax for all supplies that are part of the arrangement.

⁵⁷ The tax rate was 12.5% when Kaea purchased the apartment, so the tax fraction is 1/9 rather than 3/23.

⁵⁸ Section 3A(3B).

122. For a supply of land to be part of an arrangement involving multiple supplies, there would need to be some sort of plan or linkage between the different supplies or steps in the arrangement.⁵⁹

Meaning of “consideration” and “purchase price”

123. The definition of input tax in s 3A refers to both the “consideration” for a supply (in s 3A(3)(d) and (e)) and the “purchase price” of the goods (in s 3A(3)(a)(ii), (b)(ii), (c)(ii) and (d)(i)). The definition also refers to “consideration in money” (in s 3A(3)(e)).

124. “Consideration” and “consideration in money” are defined in s 2:

consideration, in relation to the supply of goods and services to any person, includes any payment made or any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of any goods and services, whether by that person or by any other person; but does not include any payment made by any person as an unconditional gift to any non-profit body

consideration in money includes consideration expressed as an amount of money

125. However, “purchase price” is not defined.
126. It is not entirely clear what the difference is between “consideration” and “purchase price” in the context of s 3A(3). The context provided by s 3A(3)(d) might suggest (generally – for all of s 3A(3)) that the difference arises where the supply is not the only matter to which the consideration relates; in which case purchase price might refer only to the portion of the consideration that relates to the supply.⁶⁰
127. Further, it appears that purchase price and consideration in s 3A(3) can include monetary and non-monetary payments made for the supply of the goods.
128. In s 3A(3), the phrase consideration in money is used only in s 3A(3)(e), the catch-all provision that states that in all other cases, the amount of input tax is the tax fraction of the consideration in money for the supply. However, even in that case, consideration can be non-monetary, provided the consideration is “expressed as an amount of money”. For example, the consideration could be expressed as being an amount of \$10,000, even if the consideration is provided in the form of a car.

⁵⁹ “Arrangement” is not defined for the purposes of s 3A(3B). However, it is considered a court is likely to interpret the word arrangement in this context in a similar way as it is used in s 76, the general anti-avoidance provision in the Act. The meaning of “arrangement” is discussed in IS 23/01: Tax avoidance and the interpretation of the general anti-avoidance provisions sections BG 1 and GA 1 of the Income Tax Act 2007 *Tax Information Bulletin* Vol 35, No 2 (March 2023): 8.

⁶⁰ This appears to be consistent with the view taken in A McKenzie, *GST: A practical guide* (e-book, 10th ed, CCH, 2017) at 302.

Meaning of “original purchase price”

129. The Commissioner considers that the “original purchase price of the goods when they were received by the supplier” can include the purchase price of multiple supplies that have been used to produce the current good. For example, the original purchase price of a property could include the purchase price of the land and the cost of erecting a building on the property.
130. If the good received by the registered person consist of only part of a good received by the supplier when the supplier acquired the good, an apportionment is required to calculate the original purchase price.
131. This is illustrated in Example | Tauira 21.

Example | Tauira 21 – Original purchase price where there are renovations and extension to a property

Sean, who is not registered for GST, purchases a run-down property for \$1.1 million. Sean subdivides the property into two sections. After the subdivision, the section containing the property is valued at \$690,000 and the other section is valued at \$450,000.

Sean then spends another \$460,000 on renovations and an extension to the property.

Ten years later, Sean and his partner incorporate a company, which is starting an early learning centre. Sean, still not a registered person, sells the section containing the property to the company for \$1.38 million (which is the open market value). The company intends to use the property as the premises for the early learning centre.

The company can claim a secondhand goods input tax deduction, but this will be limited to the tax fraction of the original purchase price of the property.

The original purchase price of the property includes a portion of the \$1.1 million amount Sean paid for the land before it was subdivided and the \$460,000 spent on renovations and the extension to the property.

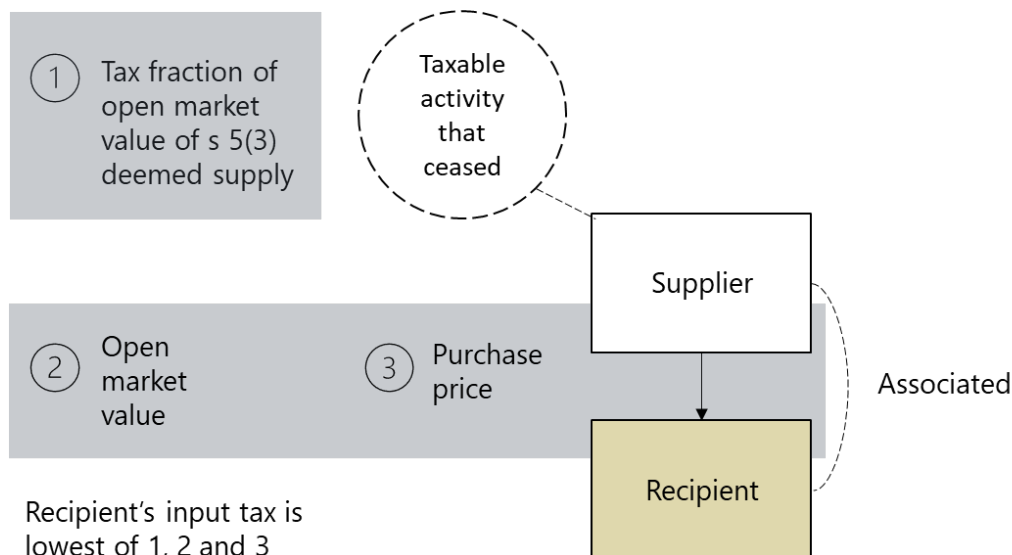
The portion of the \$1.1 million purchase price can be calculated based on the relative values of the two sections after subdivision: $\$690,000 / (\$690,000 + \$450,000) \times \$1.1 \text{ million} = \$665,789$.

This combined with the \$460,000 spent on renovations and the extension to the property gives an original purchase price of \$1,125,789. The tax fraction of this is \$146,842. This is the secondhand goods input tax deduction the company can claim.

Associated persons, deemed supply under s 5(3)

132. The calculation of input tax is different if the associated supplier was previously a registered person and was treated under s 5(3) as making an earlier supply of the goods when they ceased to be registered. Under s 5(3), where a person ceases to be a registered person, any goods then forming part of their taxable activity are deemed to be supplied by that person in the course of that taxable activity (despite in fact retaining the goods).
133. If the supplier and the recipient are associated persons and the supplier is deemed to have made a supply of the goods under s 5(3), then the input tax is the lowest of the tax fraction of the:⁶¹
- open market value of the deemed supply under s 5(3) (or the tax fraction of the valuation under s 10(8) if the supply was valued under that subsection);
 - purchase price; and
 - open market value of the supply.
134. This is illustrated in Diagram | Hoahoa 6 and Example | Tauira 21.

Diagram | Hoahoa 6 – Input tax restricted because of deemed supply on cessation of taxable activity



⁶¹ Section 3A(3)(c).

Example | Tauira 22 – Selling business assets after cessation to associated company

Albert operated a café business for several years but last year had to close the café. When the café closed, Albert ceased his GST registration. As a result, under s 5(3), Albert was treated as making a deemed supply (not an actual supply) of the café assets that he retained. This included the retail property from which he ran the café. The open market value of the property at the time of the deemed supply was \$300,000.

Albert has just sold the property for \$350,000 to Always Coffee Ltd, which is opening a new café. The sale price of \$350,000 reflects the open market value of the property. Albert has voting interests of 30% in Always Coffee Ltd, so Albert is associated with the company at the time of supply.⁶²

Always Coffee Ltd can claim a secondhand goods input tax deduction. However, because Albert is associated with the company, the company's secondhand goods input tax deduction is restricted to \$39,130.43 (\$300,000 x 3/23), being the tax fraction of the \$300,000 open market value of the deemed supply that occurred last year when Albert's taxable activity ceased under s 5(3).

Associated persons

135. In some cases, the calculation of input tax depends on whether two persons (usually the supplier and the recipient) are associated. For GST purposes, whether two persons are associated is determined by the definition of "associated persons" in s 2A.
136. Determining whether two persons are associated is complex, so we don't discuss the definition of "associated persons" in detail here. Read the definition in s 2A and obtain advice if necessary. Some guidance is in **A guide to associated persons definitions for income tax purposes – IR620**.
137. In very simple terms and without being exhaustive, associated persons include:
- companies controlled to the extent of 50% or more by the same group of persons;
 - a company and a person with a 25% or greater interest in the company;
 - a partnership and a partner of the partnership;
 - an unincorporated joint venture and a member of the venture;

⁶² Section 2A(1)(b)(i).

- relatives by blood (to the second degree), marriage, civil union, de facto relationship or adoption;
- trustees of a trust and persons who have benefited or are eligible to benefit under the trust;
- trustees and the settlor of a trust, except where the trustee is a charitable or non-profit body;
- trustees of two trusts that have a common settlor; and
- two persons if they are each associated with a common third person (tripartite test).

138. The definition also features an aggregation rule⁶³ that can apply where two persons are associated. Each person can be treated as holding the company ownership interests that the other holds as well as their own, which may result in a threshold being reached for company association.

Tax fraction

139. In the context of secondhand goods input tax deductions, where no GST is charged by the supplier, input tax is an imputed amount calculated based on the tax fraction of the relevant amount (for example, the tax fraction of the purchase price).

140. The tax fraction is usually 3/23, which reflects the current GST tax rate of 15%. However, in some cases a different tax fraction applies because (as discussed below) input tax is sometimes calculated by reference to a purchase price or valuation that was paid or made in the past when a different GST rate applied.⁶⁴

141. The history of the changes in the GST tax rate and the corresponding tax fractions are summarised in the Table | Tūtohi 1.

Table | Tūtohi 1 – History of tax rates and tax fractions

When the supplier received the goods	Tax rate	Tax fraction
On or after 1 October 2010	15.0%	3/23
Between 1 July 1989 to 30 September 2010	12.5%	1/9
Between 1 October 1986 to 30 June 1989	10.0%	1/11

⁶³ Section 2A(4).

⁶⁴ Section 3A(5) states that for the purpose of s 3A(3), tax fraction means the tax fraction that applies at the time of supply.

142. The tax fraction is found by dividing the tax rate by the sum of 1 plus the tax rate (that is, $r/(1+r)$, where r is the tax rate). For example, where the tax rate is 15%, the tax fraction is given by $0.15/1.15$. This tax fraction can be simplified to $3/23$ by multiplying both the numerator (0.15) and denominator (1.15) by 20.

Input tax deductions on acquisition or on change in use

143. With regard to timing, a secondhand goods input tax deduction could be claimed by a registered person on the acquisition of goods (subject to payment being made).⁶⁵ However, a deduction could also be claimed later if there has been a change in use of the goods from non-taxable to taxable.⁶⁶ For example, if a person buys a used car for their personal use but later introduces it to their taxable activity. A person could also claim a secondhand goods input tax deduction if they acquired secondhand goods before becoming a registered person and then, on or after becoming a registered person, used the goods for making taxable supplies.⁶⁷ This is illustrated in Example | Tauira 23.
144. The situation is different if before starting a new activity, a person incorporates a company to carry on the activity and then transfers goods to the company. Here there is no change in use by the person because the goods are being transferred to a separate legal entity.
145. In some cases, a company can be treated as having acquired goods that were acquired by a person on the company's behalf before the company was incorporated. However, this treatment does not apply where the goods are secondhand and the transfer of the goods to the company would not be a taxable supply.⁶⁸

Example | Tauira 23 – Deduction claimed for asset after registration for GST

Amina acquired a van in 2022 for \$15,000 from an unregistered supplier. She uses the van to collect unwanted furniture, which she restores and sells online. Amina's restoration activity started out as a hobby, but she has widened her activity, and her sales have now grown to the point where she is ready to register for GST.

Amina registers for GST, and in the return covering her first balance date after becoming a registered person claims an input tax deduction for \$1,956.52, being the imputed GST on the purchase price of the van ($3/23 \times \$15,000$). This is on the basis

⁶⁵ Section 20(3).

⁶⁶ Sections 20(3)(e) and 21D(3)(a).

⁶⁷ Sections 20B(1)(a)(iii) and (b).

⁶⁸ Section 22(c).

that there has been a 100% change in use from non-taxable to taxable use (because she is now registered).

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In draft form these items may not be relied on by taxation officers, taxpayers, or practitioners. Only finalised items represent authoritative statements by Inland Revenue of its stance on the particular issues covered.

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About this document | Mō tēnei tuhinga

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