

DETERMINATION > COVID-19 VARIATION

Variation to sections 52(3) and 52(4) of the Goods and Services Tax Act 1985

Issued: 17 August 2020

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EFFECTIVE: 17 March 2020 to 31 October 2020

Variation

The Commissioner of Inland Revenue has, under the discretion provided under section 6I of the Tax Administration Act 1994, made the following statutory variation:

For GST registered customers with a taxable activity of supplying accommodation who between 14 February 2020 and 31 October 2020 change to making exempt supplies of accommodation leaving them with no taxable activity, the time periods specified in s 52(3) and s 52(4) of the Goods and Services Tax Act 1985 are extended from 12 months to 18 months.

The effect of the variation will be:

- a. Under s 52(3), the Commissioner will not cancel registration for a customer if there are reasonable grounds for believing that the customer will carry on any taxable activity at any time within 18 months from the date their taxable activity ceased.
- b. Under s 52(4), the information required to be provided by the customer must include whether or not the customer intends to carry on any taxable activity within 18 months of that date.

This is subject to the conditions that:

- the impacts of COVID-19 response measures or the consequences of COVID-19 were the reason the customer ceased their taxable activity of supplying accommodation;
- the customer uses the email address STRdisclosures@ird.govt.nz to inform the Commissioner of the cessation of all taxable activities, the date of cessation and that they intend to carry on a taxable activity within 18 months of that date.

Application date

This variation applies from 17 March 2020 to 31 October 2020.

Dated at Wellington on 17 August 2020.

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Background (material under this heading does not form part of the variation)

Summary of effect

1. Under s 52(3), a GST registered person who no longer carries on any taxable activity is obliged to let the Commissioner know within 21 days of the date their taxable activity ceased. The Commissioner must then cancel their registration unless there are reasonable grounds to think a taxable activity will be carried on within 12 months.
2. The customer must also tell the Commissioner whether or not they intend to carry on any taxable activity within 12 months of cessation.
3. The variation extends the time periods above from 12 months to 18 months and will allow customers with a taxable activity of supplying accommodation to postpone or avoid cancellation of their GST registration where, due to the impacts of COVID-19, they have stopped their taxable activity and switched to making exempt supplies but intend resuming a taxable activity in the future.

Provisions affected

4. Sections 52(3) and 52(4) of the Goods and Services Tax Act 1985.

Application of variation

5. This variation applies to customers who were making taxable supplies of accommodation but have changed to making exempt supplies of accommodation in a dwelling. It recognises that COVID-19 has changed the market for short-stay accommodation in parts of New Zealand resulting in some suppliers temporarily changing to become suppliers of longer-term residential accommodation, an exempt supply. It is appropriate in the circumstances that they should not have their registration cancelled only to have to renew their registration at a later date.
6. Customers taking advantage of the variation must still make the change of use adjustments required under Part 3 of the Goods and Services Tax Act 1985.

7. The variation is subject to conditions that cessation of the customer's taxable activity was COVID-19 related and that the customer uses a specific email address to provide the information required by s 52 of the GST Act.
8. Customers can choose not to apply the variation to their circumstances. You can make that decision by taking a tax position, such as in a tax return, or by telling us. If you've already complied with the existing legislation in taking a tax position, we will consider that you have not chosen to apply the variation.

References

Legislative references

Tax Administration Act 1994: ss 6H and 6I

Goods and Services Tax Act 1985: ss 52(3) and 52(4)

About this publication

To help customers manage the impacts of COVID-19, the Commissioner now has a discretion to vary a requirement under an Inland Revenue Act (including for these purposes, the Unclaimed Money Act 1971). This discretion is found in ss 6H and 6I of the Tax Administration Act 1994 and applies from 17 March 2020 to 30 September 2021. This variation is an exercise of that power.