

DETERMINATION > MISCELLANEOUS

# **GST on accommodation supplied through electronic marketplaces – opt-out agreement criteria**

Issued: 21 May 2024

DET 24/02

## **Application**

This determination sets criteria for when a person who supplies accommodation through an electronic marketplace (an underlying supplier) can enter into an opt-out agreement with the operator of an electronic marketplace. The determination is made under section 60C(2BC) of the Goods and Services Tax Act 1985.

The determination applies to hostels and motels that were registered for GST on or before 1 April 2024 and exceed the GST registration threshold (making supplies of more than \$60,000 for the last 12-months or expecting to make supplies of more than \$60,000 for the next 12-months), where they make supplies both through an electronic marketplace and directly to recipients of accommodation services. It applies for hostels and motels that would otherwise be unable to opt-out of the electronic marketplace rules as they do not satisfy the statutory opt-out thresholds (i.e., because they make taxable supplies of \$500,000 or less in a 12-month period and do not have 2,000 nights of accommodation listed as available on one electronic marketplace for a 12-month period).

The determination applies on and from 21 May 2024 for taxable periods starting on or after 1 April 2024 and ending on or before 31 March 2025.

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## Determination

Pursuant to section 60C(2BC) of the Goods and Services Tax Act 1985 (the Act), the Commissioner of Inland Revenue has determined that a person who is an underlying supplier may enter into an opt-out agreement with an operator of an electronic marketplace, if:

- (a) they were registered under the Act on or before 1 April 2024 and their registration has not subsequently been cancelled under section 52 of the Act; and
- (b) they are required to be registered as a result of section 51(1) of the Act; and
- (c) they do not meet the requirements of section 60C(2BE) or section 60C(2BF) of the Act; and
- (d) they supply accommodation services referred to in section 8C(2)(a) of the Act in a hostel or motel; and
- (e) the accommodation includes both:
  - (i) accommodation that is listed as available on 1 or more electronic marketplace; and
  - (ii) accommodation that can be booked directly with the underlying supplier.

## Interpretation

In this determination words and expressions have the same meaning as in the Goods and Services Tax Act 1985.

This determination was signed by me on 21 May 2024.

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**Matthew Evans**

Technical Lead, Technical Standards, Legal Services  
Inland Revenue

## Commentary on DET 24/02

This commentary does not form part of the determination. It is intended to help in the understanding and application of the determination.

All section references are to the Goods and Services Tax Act 1985 (the Act).

### Background

The Act includes rules relating to the application of goods and services tax (GST) to listed services supplied through an electronic marketplace (the marketplace rules) which apply from 1 April 2024. Listed services include the supply of taxable accommodation services in New Zealand (section 8C(2)(a)). Taxable accommodation services include short-term rentals and visitor accommodation that is not an exempt supply under section 14(1)(c).

Under the marketplace rules, when taxable accommodation services are supplied through an electronic marketplace by a person (an underlying supplier) to another person (the recipient of the services), the operator of the electronic marketplace is usually treated as making the supply to the recipient of the services and will be responsible for collecting and returning GST on these supplies. This means the underlying supplier will not be responsible for collecting and returning GST and will instead include sales they make through the electronic marketplace in their GST returns as zero-rated supplies.

For more information on the marketplace rules, see [GST on accommodation and transportation services supplied through online marketplaces](#) (special report, Inland Revenue, updated 2 April 2024).

### Ability to opt-out of the marketplace rules

In certain circumstances, underlying suppliers can opt-out of the marketplace rules, which means they will remain responsible for their own GST obligations. Underlying suppliers that opt-out of the marketplace rules would include supplies of listed services made through an electronic marketplace in their GST returns as standard-rated supplies.

Under the Act an underlying supplier can opt-out of the marketplace rules where:

- The underlying supplier (or a group of companies they are part of) has 2,000 nights of accommodation available on one electronic marketplace in a 12-month period or a reasonable expectation they can meet this threshold for any 12-month period (section 60C(2BE)). An underlying supplier that meets this criterion must enter into an opt-out agreement with the operator of the electronic marketplace to opt-out of the marketplace rules.

- The underlying supplier is required to maintain a monthly or two-monthly taxable period (i.e., they make taxable supplies of more than \$500,000 in a 12-month period) and is not a natural person (section 60C(2BF)). To opt-out of the marketplace rules, an underlying supplier that meets this criterion must notify the operator of the electronic marketplace that they will continue to remain responsible for their own GST obligations.

The Commissioner of Inland Revenue (the Commissioner) also has the power, under section 60C(2BC), to make a determination setting out circumstances and criteria a person must meet to enter into an opt-out agreement. That is, the Commissioner can make a determination that would enable certain underlying suppliers that do not meet the statutory thresholds in section 60C(2BE) or section 60C(2BF) to opt-out of the marketplace rules.

In making a determination under section 60C(2BC), the Commissioner must have regard to the following factors set out in section 60C(2BD)):

- the compliance costs that would arise for underlying suppliers in making changes to their accounting systems and practices; and
- the size, scale, and nature of the services and activities undertaken by underlying suppliers.

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The determination enables a person that is an underlying supplier to enter into an opt-out agreement with an operator of an electronic marketplace if:

- they were registered for GST on or before 1 April 2024 and their registration has not subsequently been cancelled;
- they exceed the \$60,000 GST registration threshold in section 51(1) (i.e., they are required to be registered for GST because they made supplies of more than \$60,000 for the last 12-months, or they expect to make supplies of more than \$60,000 for the next 12-months);
- they do not satisfy the statutory opt-out thresholds in section 60C(2BE) or section 60C(2BF) (i.e., they do not meet the 2,000 nights or \$500,000 of taxable supplies thresholds);
- they supply taxable accommodation services in a hostel or a motel (“hostel” and “motel” are not defined in the Act so have their ordinary meanings); and
- the accommodation includes both accommodation that can be booked through an electronic marketplace and accommodation that can be booked directly with the underlying supplier (this means an underlying supplier that only makes supplies

through an electronic marketplace will not be eligible to enter into an opt-out agreement in reliance on the determination).

In addition to satisfying the criteria in the determination set out above, for an underlying supplier to be able to opt-out of the marketplace rules and remain responsible for their own GST obligations they must also meet other requirements in section 60C(2BB). These requirements are:

- The documentation provided to the recipient of the services identifies the supply as being made by the underlying supplier and not the operator of the electronic marketplace (section 60C(2BB)(b)).
- The underlying supplier and the operator of the electronic marketplace have agreed, recording their agreement in a document, that the underlying supplier is liable for the payment of GST in relation to the supplies made through the electronic marketplace, and will continue to remain responsible for their tax obligations under the Act (section 60C(2BB)(c)). This includes providing the recipient of the services with taxable supply information, if required, and providing GST returns and paying GST to Inland Revenue.

### **If an underlying supplier stops meeting the criteria in DET 24/02**

If an underlying supplier stops meeting the criteria set out in the determination the Commissioner expects the underlying supplier to withdraw their agreement with the electronic marketplace operator.

### **Relevant factors when making a determination**

In making the determination the Commissioner has had regard to the factors in section 60C(2BD).

The Commissioner considers that, compared to other providers of taxable accommodation that are unable to opt-out of the marketplace rules, the size, scale, and nature of the services and activities undertaken by hostels and motels that satisfy the determination criteria have a sufficient degree of commerciality for it to be appropriate for them to continue to be responsible for their own GST obligations.

The Commissioner also recognises that many hostels and motels will meet the statutory thresholds for opting out of the marketplace rules in section 60C(2BE) or section 60C(2BF).

The determination enables those hostels and motels who do not meet the statutory thresholds (for example, because they close during certain seasons of the year) to continue with existing accounting systems and practices they had in place before the introduction of the marketplace rules on 1 April 2024 for a 12-month period.

The Commissioner accepts that in their current situation, if they were unable to opt-out of the marketplace rules, underlying suppliers described in the determination would face increased compliance costs associated with making changes to their existing accounting systems and practices. For example, because they would need mechanisms in place to ensure the correct GST treatment of both supplies made through electronic marketplaces (zero-rated) and supplies made directly to recipients (standard-rated). Improvements to accounting systems and practices may reduce the impact of compliance costs in future years. The Commissioner will consider this factor when reviewing the determination.

### **Application**

The determination has been issued for a 12-month period (for taxable periods starting on or after 1 April 2024 and ending on or before 31 March 2025) and will be reviewed before its expiry.