

FACT SHEET | PUKA MEKA

GST – Section 5(6D): Payments in the nature of a grant or subsidy

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IS 23/05 FS

This fact sheet accompanies Interpretation Statement 23/xx which considers the application of section 5(6D) of the Goods and Services Tax Act 1985 (the Act).

RELATED DOCUMENTS | TUHINGA WHAI PĀNGA

For more information on grants and subsidies see:

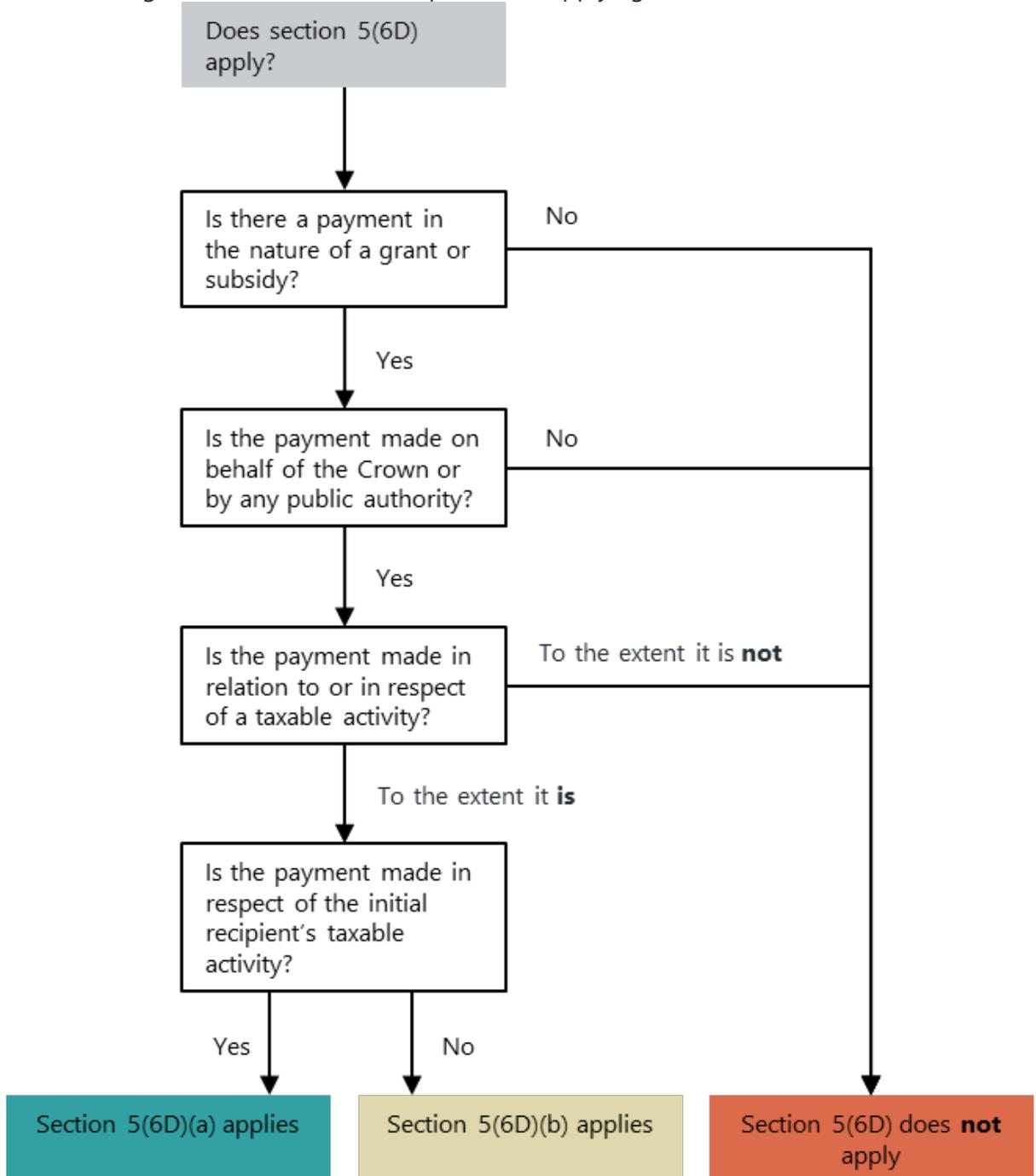
- [Interpretation statement 23/06](#) Income Tax – Government payments to businesses (grants and subsidies).
- [IR249](#) “Grants and Subsidies”
- [Tax on grants and subsidies](#)

Introduction | Whakataki

1. The interpretation statement discusses the application and effect of section 5(6D).
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Flowchart

2. The following flowchart illustrates the process of applying section 5(6D).



Outline of the flowchart process.

1. Does section 5(6D) apply?
 - 1.1. Forward to 2.
2. Is there a payment in the nature of a grant or subsidy?
 - 2.1. **If No**, Forward to 8.
 - 2.2. **If Yes**, Forward to 3.
3. Is the payment made on behalf of the Crown or by any public authority?
 - 3.1. **If No**, Forward to 8.
 - 3.2. **If Yes**, Forward to 4.
4. Is the payment made in relation to or in respect of a taxable activity?
 - 4.1. **If To the extent it is not**, Forward to 8.
 - 4.2. **If To the extent it is**, Forward to 5.
5. Is the payment made in respect of the initial recipient's taxable activity?
 - 5.1. **If No**, Forward to 7.
 - 5.2. **If Yes**, Forward to 6.
6. Section 5(6D)(a) applies.
7. Section 5(6D)(b) applies.
8. Section 5(6D) does **not** apply.

Summary

3. Section 5(6D) broadly provides that when a payment in the nature of a grant or subsidy is paid on behalf of the Crown or by a public authority to a person in respect of their taxable activity, then that payment is deemed to be consideration for a supply of goods and services in the course or furtherance of the taxable activity of the person.

Payment in the nature of a grant or subsidy

4. The first requirement of the section is that there is a payment made to a person that is in the nature of a grant or subsidy. That is explained more fully in the interpretation statement at paragraphs 19 to 36, but in very general summary a grant or subsidy is a payment made gratuitously to encourage a particular outcome in the public interest.

Payment made on behalf of the Crown or by any public authority

5. The second requirement of the section is that the payment is made on behalf of the Crown or by any public authority; see paragraphs 37 and 38 of the interpretation statement. "Public authority" is defined in the Act. A payment that is not made on behalf of the Crown or by a public authority is not covered by section 5(6D).

Payment made in relation to or in respect of a taxable activity

6. The third requirement is that the payment is made in relation to or in respect of a taxable activity. This is discussed from paragraphs 39 to 55 of the interpretation statement. A payment will not be paid in relation to or in respect of a taxable activity when it is paid:
 - In relation to or in respect of an activity that involves making exempt supplies (such as financial services or residential accommodation);
 - In relation to or in respect of an activity of a non-profit body that does not involve making supplies for a consideration (such as the provision of free meals at a soup kitchen) and that is not connected to any taxable activity of that non-profit body;
 - To a person for the personal use and benefit of that person; and
 - Partly in relation to a taxable activity and partly in relation to another matter, to the extent the payment relates to that other matter.

Is the payment for the original recipient of the payment or someone else?

7. Where a payment is made in relation to or in respect of a taxable activity the next point to consider is whether the person originally receiving the payment:
 - Receives it in relation to or in respect of that person's taxable activity; or

- Receives it for the benefit and on behalf of another person in relation to or in respect of that other person's taxable activity.
8. In the first circumstance the original recipient will have GST obligations in respect of the grant or subsidy (see paragraphs 39 to 45 of the interpretation statement). In the second circumstance the ultimate recipient of the grant or subsidy will have the GST obligations in respect of the payment and not the original recipient (see paragraphs 46 to 55 of the interpretation statement).

About this document | Mō tēnei tuhinga

Some of the Tax Counsel Office's longer or more complex items are accompanied by a fact sheet that summarises and explains an item's main points. While it summarises the Commissioner's considered views, a fact sheet should be read alongside the full item to completely understand the guidance. Fact sheets are not binding on the Commissioner. See further [Status of Commissioner's advice](#) (December 2012).