

QUESTIONS WE'VE BEEN ASKED | PĀTAI KUA UIA MAI

GST listed services rules: How do the rules apply when there is a supply of listed services and other goods or services?

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QB 25/20

This question we've been asked (QWBA) discusses some issues with identifying the relevant supplies for the GST listed services rules. It explains what listed services are and how to apply the GST listed services rules if a supply includes listed services with other goods or services.

For information on how the GST listed services rules apply generally, see:

- [GST on listed services](#), Inland Revenue's web guidance on the listed services rules, including fact sheets applicable to underlying suppliers, listing intermediaries and electronic marketplaces.
- Inland Revenue's special report: [GST on accommodation and transportation services supplied through online marketplaces](#)

Question | Pātai

How do the GST listed services rules apply when there is a supply of listed services and other goods or services?

Answer | Whakautu

The GST listed services rules apply only when an underlying supplier supplies “listed services” to a recipient through an electronic marketplace operator.

A supply of listed services includes some transport services (ride-sharing and ride-hailing services and delivery services for food and beverages) and accommodation services (excluding exempt accommodation). Accommodation services do not include supplies of assets such as caravans.

When a supply includes listed services and other goods or services, standard GST principles apply to determine whether there is a single supply or multiple supplies. The listed services rules apply only to any supplies of listed services that are separate from other supplies.

Key terms | Kianga tau tāpua

Electronic marketplace means a marketplace operated by electronic means, by which the underlying supplier makes a supply of listed services through the marketplace operator to the recipient.

Listed services means a supply performed, provided or received in New Zealand of either:

- accommodation services, other than an exempt supply under s 14(1); or
- transport services in the form of ride-sharing or ride-hailing services, or delivery services for food, beverages or both.

Listing intermediary means a person (eg, a property manager) that lists accommodation services on an electronic marketplace on behalf of underlying suppliers.

Underlying supplier means the person supplying the listed services, such as the accommodation owner or the driver or deliverer.

Explanation | Whakamāramatanga

1. All legislative references are to the Goods and Services Tax Act 1985.
2. The GST listed services rules apply when underlying suppliers (eg, drivers and accommodation owners) supply “listed services” to a recipient through an electronic marketplace operator.
3. When the rules apply, a supply of listed services is generally treated as being two supplies. The first supply is from the underlying supplier to the marketplace (which is zero-rated if the underlying supplier is GST-registered), and the second supply is from the marketplace to the recipient. The marketplace must account for GST on the supply it is treated as making to the recipient and pay a flat-rate credit to any underlying suppliers that are not GST-registered.
4. When a listing intermediary is involved, the supply of listed services is generally treated as being three supplies. The first supply is from the underlying supplier to the listing intermediary (which is zero-rated if the underlying supplier is GST-registered), the second supply is from the listing intermediary to the marketplace (which is also zero-rated), and the third supply is from the marketplace to the recipient. The marketplace must account for GST on the supply it is treated as making to the recipient. The listing intermediary pays a flat-rate credit to any underlying suppliers that are not GST-registered.
5. Therefore, electronic marketplaces, underlying suppliers (eg, drivers and accommodation owners) and listing intermediaries (property managers or agents) need to know whether a supply will be subject to the listed services rules, as this affects who is liable to account for GST on the supply.
6. This QWBA explains how the GST listed services rules apply when there is a supply of both listed services and other goods or services. To set the context for that issue, this QWBA first explains what services are included as listed services.
7. A related QWBA (**QB 25/19: GST listed services rules: When is a supply made through an electronic marketplace?**) explains when a supply is made through an electronic marketplace.

What services are included as listed services?

8. Listed services are:
 - a supply of accommodation services in New Zealand, other than an exempt supply under s 14(1)(c); and

- a supply of transport services in New Zealand in the form of:
 - ride-sharing or ride-hailing services; and
 - delivery services for food, beverages or both.

What are accommodation services?

9. Listed services do not include accommodation that is exempt under s 14(1)(c). This exemption applies to accommodation in a dwelling the person uses as their principal place of residence and for which they have quiet enjoyment rights. Generally, the provision of short-stay accommodation to a guest will not be exempt as it would not be the guest's principal place of residence. All other accommodation is generally subject to GST.¹
10. "Accommodation services" are not defined for these purposes. Accommodation can have a broad meaning and takes its meaning from the statutory context in which it is used.² In the context of the GST listed services rules, "accommodation services" does not describe the physical nature of a place, but instead describes a service the underlying supplier provides.
11. Supplies of assets (eg, a caravan, campervan, boat or tent) are not the supply of accommodation services.³ The asset by itself, without a site on which it is placed and connected to facilities, would not be a space in which someone may live or stay.⁴ However, there will be a supply of accommodation services when the supply of the asset is on a site, where the asset is configured for accommodation and is connected to utilities such as electricity and water.
12. Example | Tauira 1 illustrates supplies that are not listed services, and Example | Tauira 2 illustrates supplies that are listed services.

¹ For completeness, the reduced GST rate that can apply under s 10(6) for some accommodation supplies in commercial dwellings does not apply to supplies made through an electronic marketplace.

² *Urdd Gobaith Cymru v Commissioner of Customs and Excise* [1997] V & DR 273 at 279, *Rawlings v Pilcher* [2014] NZ NZEnvC 49.

³ *Revenue and Customs Commissioners v C Jenkin & Son Ltd* [2017] UKUT 239 (TCC); *Case T44* (1998) 18 NZTC 8,295.

⁴ *Concise Oxford English Dictionary* (12th ed, Oxford University press, 2011) definition of "accommodation".

Example | Tauria 1 – Supplies that are not listed services

Brian owns a beachfront section and takes his caravan there over the summer. Brian decides to hire the caravan out during winter to help fund maintenance costs.

Brian uses Camperconnect, a platform that connects owners of caravans and campervans with customers, where customers collect the caravans and drive them away. Although Camperconnect is an electronic marketplace, it does not provide listed services, as supplies of caravans without a site and connection to facilities are not supplies of accommodation services.

Brian is not GST-registered, so he does not need to account for GST on his supplies made through Camperconnect.

Example | Tauria 2 – Supplies that are listed services

Camperconnect from Example | Tauria 1 extends its offerings to include holiday homes.

Brian realises he could earn a higher nightly fee if he hired out the caravan on the beachfront section. The section has a small unit with cooking and bathroom facilities and is connected to a power supply and water. The supply of the caravan on the site connected to facilities is the supply of accommodation services and is a listed service.

Camperconnect will need to account for the supplies of accommodation services under the GST listed services rules. As Brian is not GST-registered, Camperconnect will need to pay him a flat-rate credit.

What are the relevant types of transportation services?

13. Ride-sharing or ride-hailing services are defined as services provided through an electronic marketplace that involve engaging a personal driver to transport a person to their chosen destination.
14. Delivery services are limited to deliveries of food, beverages or both. The rules do not apply to deliveries of other goods. The relevant service for these purposes is the delivery service, not the supply of the food or beverage.

What happens when supplies of listed services are made along with other goods or services?

15. A supply of listed services may sometimes be made along with supplies of other goods or services. There has been some uncertainty with how the GST listed services rules apply. The following questions arise:
- When are other services included as “closely connected services”?
 - How do the listed services rules apply when listed services are supplied with other goods or services?
 - How do the parties work out GST obligations when some supplies are in the listed services rules and other supplies are under standard GST rules?

When are other services included as closely connected services?

16. Listed services include other closely connected services. These are services that are ancillary to the listed service, supplied by the same underlying supplier and advertised, listed or made available through the marketplace to recipients.⁵ An example is cleaning services provided by an underlying supplier along with the supply of accommodation services.
17. Closely connected services do not include any direct supplies the underlying supplier or the marketplace makes to the recipient. For example, they do not include:
- services provided by the marketplace to the recipient or underlying supplier in consideration for service fees; or
 - property management services a property manager provides to an underlying supplier in consideration for a property management fee.
18. Closely connected services also do not extend to the provision of other services that may form part of a wider supply along with listed services.
19. A closely connected service is provided by the same underlying supplier to the recipient through the marketplace. When other services such as cleaning services are provided by a listing intermediary through the electronic marketplace to the recipient, these other services are a zero-rated supply along with the supply of accommodation services.⁶ However, these other services are not closely connected services so are not

⁵ Section 8C(7).

⁶ Section 60CB(3).

included in the calculation of the flat-rate credit paid to non-registered underlying suppliers.⁷

How do the listed services rules apply when listed services are supplied with other goods or services?

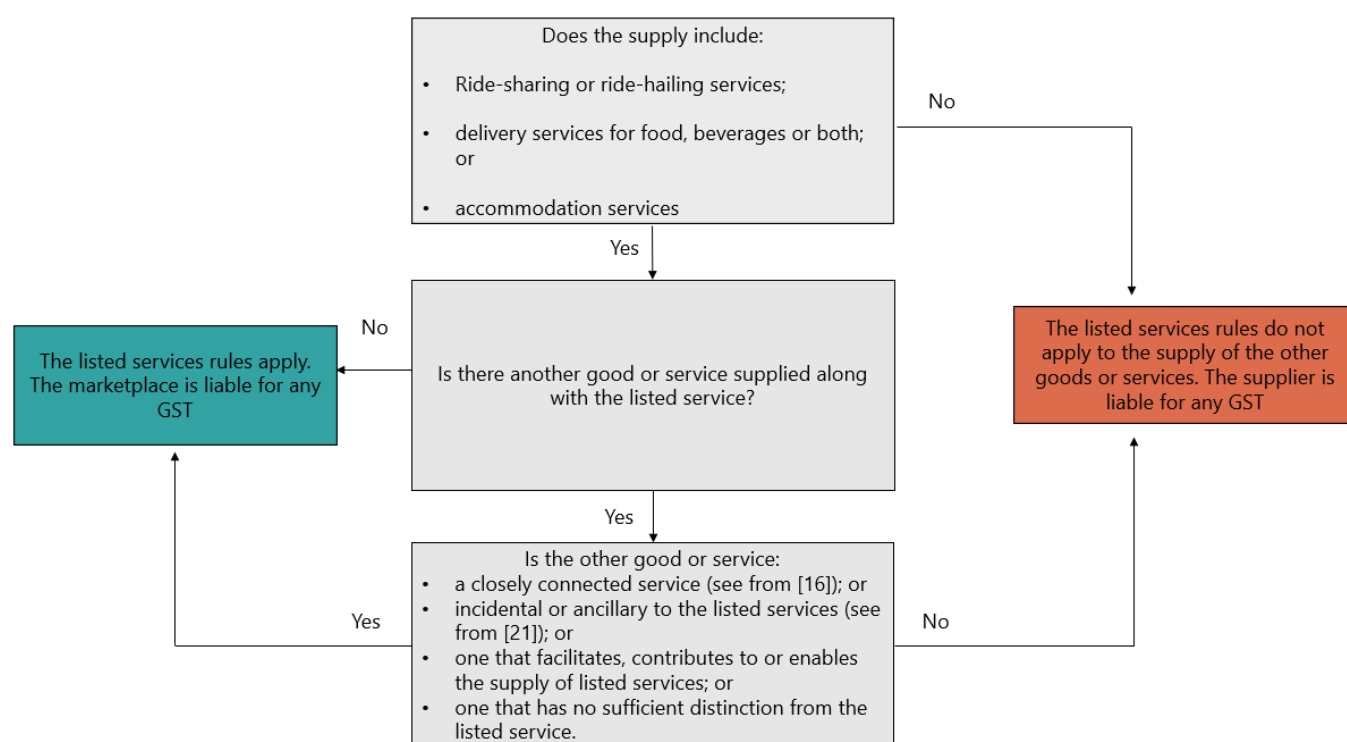
20. Issues arise when a supply includes listed services and other goods or services. In these cases, the question is whether the recipient has acquired a supply of listed services and a separate supply of the other goods or services, or whether there is a single supply. Once that has been determined, the nature of the relevant supply or supplies needs to be considered (ie, whether the supply is of listed services or something else).
21. Standard GST principles apply for determining how many supplies there are. For a detailed explanation, see [IS 18/04: Goods and Services Tax – Single supply or multiple supplies](#). In summary, to determine whether there is a single supply or multiple supplies, the following questions are relevant:
 - What is the true and substantial nature of what is supplied to the recipient for the payment?
 - What is the relationship between the different goods or services supplied? Is it reasonable to sever the supply into separate supplies?
22. The true and substantial nature of what is supplied to the recipient is examined from the recipient's perspective. The fact that different parts of a supply could have been supplied separately does not mean those parts should be severed from the rest of the supply. Also, the fact a single price is charged does not determine how many supplies are made.
23. Determining the relationships between the different goods or services supplied requires considering whether one part of the supply is either ancillary or incidental to, another part of the supply, or a necessary part of it. This includes considering whether part of the supply is an aim in itself, or whether it facilitates, contributes to or enables the supply of the dominant part. Also relevant is whether part of the supply is an optional extra and is not in any real or substantial sense part of the consideration for which the payment is made. Further, when different elements are contractually supplied to the recipient by different suppliers, they are separate supplies.
24. It is reasonable to sever a supply into separate supplies if a sufficient distinction exists between the different parts of the transaction. Determining this requires taking an

⁷ Section 8C(7B).

overall view and looking for the essential purpose of the transaction rather than artificially splitting what, from an economic point of view, is a single supply.

25. Once the number of supplies is established through applying these principles it is necessary to determine whether the relevant supply satisfies the meaning of “listed services” discussed above and falls within the listed services rules.
26. Figure | Hoahoa 1 and Example | Tauira 3 illustrate these concepts.

Figure | Hoahoa 1 – How the rules apply when listed services are supplied with other goods or services



Example | Tauira 3 – Supplies of multiple services

Nights&Flights is an electronic marketplace that lists accommodation and flight packages for trips within New Zealand. Customers can book one of two deals:

- With a “combo deal” for flights and accommodation listed by an underlying supplier, the customer pays a set price and cannot customise any part of the deal. Nights&Flights lists a limited number of these deals the relevant underlying suppliers offer.

- With a “custom deal” the customer books the flight and accommodation separately with different underlying suppliers. The customer selects and pays for each service separately (the flight and accommodation) using Nights&Flights’ booking system.

The combo deal is not a supply of listed services. The supply is of a holiday package with a single supplier, and the parts of the supply cannot be reasonably separated.

The custom deal involves separate supplies of listed services (accommodation) and other services (flights) offered by different underlying suppliers. The supplies of listed services are subject to the listed services rules, and the flights are subject to ordinary GST rules.

How do the parties work out GST obligations when some supplies are in the listed services rules and other supplies are under standard GST rules?

27. Where multiple supplies are made, the parties need to work out which supplies are subject to GST, which supplies are zero-rated and which are ignored for GST purposes. This will impact on whether output tax is payable (and who must pay it) and whether it is possible to claim input tax deductions.
28. Various arrangements may be in place for a supply of listed services, and different amounts may be paid by, or payable to, different parties depending on the arrangement in place. What is important is that only supplies of listed services made by an underlying supplier through the marketplace to a recipient are subject to these rules. If the parties have made other payments for direct supplies, then those supplies and payments are not subject to the listed services rules (but would be subject to standard GST rules). The following examples illustrate some different arrangements:
 - If the underlying supplier includes cleaning services as part of the supply made through the electronic marketplace to the recipient, the cleaning service is a closely connected service and is a listed service subject to the listed services rules.
 - If a listing intermediary provides cleaning services as part of the supply made through the electronic marketplace to the recipient, this is not a closely connected service and is not a listed service. However, under the listing intermediary rules the supply of cleaning services is treated as a zero-rated supply by the listing intermediary to the marketplace (along with the supply of

the accommodation services). The marketplace is treated as making a standard rated supply of the cleaning services to the recipient.⁸

- If a listing intermediary provides cleaning services directly to the underlying supplier (and not through the electronic marketplace), the cleaning service is not a closely connected service and is not a listed service. It will instead be subject to standard GST rules for supplies made in New Zealand.
- If a marketplace operator charges a service fee to the recipient and/or the underlying supplier, these fees are not subject to the listed services rules. However, these types of fees charged by a non-resident marketplace operator may be subject to other rules, such as the GST remote services rules.

29. Example | Tauira 4 illustrates how to work out GST obligations when some supplies are subject to the listed services rules and other supplies are not within the rules.

Example | Tauira 4 – Working out GST obligations

Maria is GST-registered and owns several properties used for short stay accommodation. Maria uses BachBooking as a property manager.

BachBooking undertakes a variety of services for its clients, including cleaning, property management and booking services. It charges property management fees for its services, as well as cleaning fees. BachBooking lists all of its clients' properties on a New Zealand-based marketplace, Shortstaycations.

Walter books one of Maria's properties through Shortstaycations. He pays a nightly price, including the cleaning fee charged by BachBooking. Shortstaycations separately charges a service fee to both Maria and Walter.

Under the listed services rules:

- Maria is treated as making a zero-rated supply of the accommodation to BachBooking;
- BachBooking is treated as making a zero-rated supply of the accommodation to Shortstaycations;
- Shortstaycations is treated as making a supply of the accommodation to Walter, which is subject to GST;
- the supply of cleaning services that BachBooking charges Walter through the marketplace is zero-rated to BachBooking; and

⁸ Section 60CB(3).

- Shortstaycations needs to include the cleaning services as part of its taxable supply to Walter, along with the accommodation services.

Under standard GST rules:

- Maria can claim input tax deductions for goods or services she acquired in making supplies of accommodation services (eg, the property management fees she pays to BachBooking); and
- The property management fee BachBooking receives, and service fees Shortstaycations receives, are subject to GST.

References | Tohutoro

Legislative references | Tohutoro whakatureture

Goods and Services Tax Act 1985 – ss 2 (“electronic marketplace”), 8C, 10(6), 14(1), 60CB.

Case references | Tohutoro kēhi

Case T44 (1998) 18 NZTC 8,295 (TRA)

Rawlings v Pilcher [2014] NZEnvC 49

Revenue and Customs Commissioners v C Jenkin & Son Ltd [2017] UKUT 239 (TCC)

Urdd Gobaith Cymru v Commissioner of Customs and Excise [1997] V & DR 273

Other references | Tohutoro anō

Concise Oxford English Dictionary (12th edition, Oxford University Press, 2011)

IS 18/04 GST – Single supply or multiple supplies *Tax Information Bulletin* volume 30, number 10 (November 2018)

taxtechnical.ird.govt.nz/interpretation-statements/is-1804-goods-and-services-tax-single-supply-or-multiple-supplies

taxtechnical.ird.govt.nz/tib/volume-30---2018/tib-vol30-no10

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