

**EXPOSURE DRAFT - FOR COMMENT AND DISCUSSION ONLY | HUKIHUKI HURANGA
- MŌ TE TĀKUPU ME TE MATAPAKI ANAKE**

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Send feedback to | Tukuna mai ngā whakahokinga kōrero ki
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FACT SHEET | PUKA MEKA

GST registered Unit Title Body Corporates

Issued | Tukuna: Issue Date

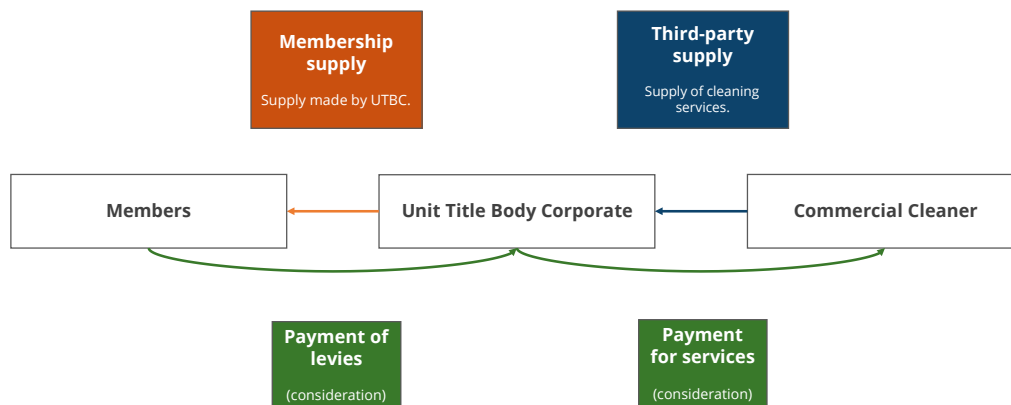
IS ##/## FS #

This fact sheet accompanies **Interpretation Statement IS XX/XX GST – Unit title body corporates** which considers how GST applies to transactions between a unit title body corporate (UTBC), its members and third-party suppliers. This fact sheet provides guidance for a UTBC which is already registered for GST. A separate factsheet **[link]** provides guidance for unregistered UTBCs which may be thinking about registering.

Introduction | Whakataki

- In carrying on its taxable activity, a GST registered unit title body corporate (UTBC) encounters two main types of supplies:
 - The UTBC's supplies of services to members for which member levies are consideration (**membership supplies**). The UTBC will need to account for GST output tax on these supplies.
 - Supplies from third parties to the UTBC for the purchase of goods and services (**third-party supplies**). The UTBC will generally be able to claim GST on these supplies when purchased from GST registered suppliers.
- Figure 1 shows an example of these supplies in the context of a levy payment to pay for cleaning services from a third-party contractor.

Figure | Hoahoa 1: Supplies of cleaning services



- While the GST treatment of these supplies is straightforward, some UTBC supplies are more complicated. This fact sheet explains the GST outcomes of transactions a registered UTBC may encounter.
 - Supplies from members
 - Supplies of manager's accommodation
 - Payments for ground rent
 - One-off payments

Supplies from members

- A member may provide services to a UTBC. An example could be an electrician who lives in an apartment complex and who agrees with the UTBC to repair and replace

light fittings in the common areas. The correct way for the UTBC and the electrician member to account for this is for the electrician to invoice the UTBC for the repairs, charging GST if the electrician is registered for GST.

5. In some cases, the UTBC may try to do a “contra-deal” where the cost of the repairs is offset against the member’s levies. While the amount can be offset between the parties, both the member electrician and the UTBC need to correctly account for the GST on the supply of the electrician’s services. See **Example | Taura 5: Accounting for GST on supplies from members** in **Interpretation Statement IS XX/XX GST – Unit title body corporates**.

Supplies of manager’s accommodation

6. A UTBC may provide an apartment to a “live in” manager. In this context there are two supplies:
 - A member supplies an apartment to the UTBC.
 - The UTBC supplies the apartment to the manager.
7. The GST treatment of both supplies depends on whether the manager lives in the apartment as their main home. If they do, both transactions would typically be exempt from GST because they are supplies of accommodation in a dwelling which is exempt from GST. This means that the UTBC cannot claim a GST input tax deduction on the lease payments it makes to the member, and the UTBC does not account for GST output tax on the amount charged to the manager. Remember, levies paid to the UTBC will still be subject to GST. Supplies of manager’s accommodation is discussed in more detail in the IS.

Ground rent

8. An apartment complex may be built on leasehold land. The UTBC for that apartment complex will need to pay ground rent to the landowner. This ground rent will be funded by money levied from members. This means there are two supplies from a GST perspective:
 - The supply by the landowner of leasehold land to the UTBC (for which the ground rent is consideration).
 - The deemed membership supply from the UTBC to its members (for which member levy payments are consideration).

Supply of leasehold land

9. The supply of leasehold land is subject to GST output tax except to the extent the land is used for the **principal purpose of accommodation in a dwelling** (this effectively means the person lives there as their main home, and is discussed in more detail in the IS). To the extent the land is used for the principal purpose of accommodation in a dwelling, it is exempt from GST. Where the UBTC is for an owner-occupier apartment complex, the apartments are likely to be used for the principal purpose of accommodation in a dwelling so the ground rent is exempt from GST.
10. However, some apartment complexes may have retail operations carried out from the premises (eg a café on the ground floor). Additionally, some apartment complexes may have members carrying on a taxable activity from their apartment (or unit). These units will not be used for the principal purpose of accommodation in a dwelling.
11. This means the landowner will need to know:
 - how many apartments are primarily occupied by people who live in the apartments as their main homes;
 - how many apartments are not occupied by people who live in the apartments as their main homes, (ie apartments which are used primarily for other purposes such as running a business or for short-stay accommodation); and
 - how many units (if any) are used for commercial purposes.
12. With this information, the landowner can determine the extent to which the land is used for the principal purpose of accommodation in a dwelling; and
 - treat the right proportion of the overall supply as an exempt supply; and
 - ensure the right amount of GST (if any) is charged on the supply.

Collection of levies for ground rent

13. The GST treatment of ground rent generally matches the GST treatment of levies collected by the UTBC to pay for ground rent. This means:
 - A UTBC would **not** have to pay GST on levy payments from apartment owners who live in their apartment as their main home (or who rents it out to a person who lives in the apartment as their main home).
 - A UTBC would **need** to pay GST on levy payments from an apartment owner whose apartment is not used for the principal purpose of accommodation in a dwelling. This would include situations where the apartment is used for

commercial purposes (ie running a business) or where it is primarily used for short-stay accommodation.

GST on receipt of one-off payments

14. The GST consequences of a one-off payment generally depends on whether the payment is received as consideration for a supply and as part of a UTBC's taxable activity. Some payments are deemed to be consideration for a supply and subject to GST. The three main one-off payments that a UTBC is likely to receive are:
- **Court awards and out of court settlements.** Whether GST output tax needs to be returned on these payments depends on whether the payment is sufficiently connected to a supply to be consideration for that supply. The Commissioner's position on the GST treatment of settlements and out of court settlements is explained in [IS 3387](#): GST treatment of court awards and out of court settlements.
 - **Insurance payments.** Insurance payments to a registered UTBC would generally be treated as consideration for a taxable supply (s 5(13)). Insurance payments made directly to a third party (rather than the insured) can also be subject to GST output tax (see [CS 20/01](#) GST liability for insurance and settlement payments to third-party claimants – Section 5(13) of the Goods and Services Tax Act 1985).
 - **MBIE FAP payments** to a UTBC would be treated as consideration for a supply of goods and services under s 5(6D) of the GST Act. A registered UTBC needs to account for GST output tax on receipt of this payment. See [CS 20/05](#) "GST treatment of payments received by a GST registered body corporate from the Ministry of Business, Innovation and Employment under the Leaky Homes Financial Assistance Package (FAP)

Cancellation of registration

15. A registered UTBC that seeks to cancel its GST registration is only able to do so on the later of:
- The date on which it applies for cancellation of the registration; or
 - The day that is four years after the registration date.

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About this document | Mō tēnei tuhinga

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