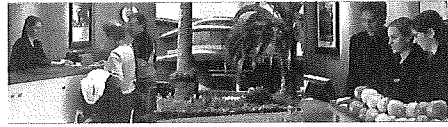




**tourism
INDUSTRY**
ASSOCIATION NEW ZEALAND



NEW ZEALAND
HOTEL COUNCIL



21 October 2011

GST: Business-to-business neutrality across borders
C/- Deputy Commissioner
Policy Advice Division
Inland Revenue Department
P O Box 2198
Wellington 6140

GST: Business-to-business neutrality across borders

To the Deputy Commissioner,

The Tourism Industry Association (TIA), New Zealand Hotel Council (NZHC) and Inbound Tour Operator Council (ITOC) make this submission on behalf of their collective membership. Both NZHC and ITOC are members of the Tourism Industry Association (TIA) and share a commonality of issues with their memberships.

About the Tourism Industry Association New Zealand

- Represents the interests of over 1,700 tourism businesses in New Zealand.
- Established in 1955, the businesses TIA represents cover a range of tourism-related activities – hospitality, transport, accommodation, adventure and activities, attractions and retail as well as related tourism services.
- The primary role of TIA is to be the voice of the tourism industry. This includes working for members on advocacy, policy, communication, events and membership and business services.

About the New Zealand Hotel Council

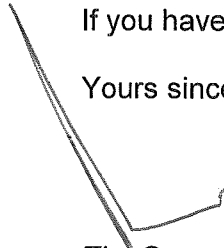
- Represents the interests of New Zealand's international chain, large independent, privately-owned and boutique hotels around the country.
- Over 130 members, largely in the eight main tourism centres, accounting for around 80% of total hotel capacity and close to 100% of 'large hotel' inventory.
- Collectively, NZHC members operate over 17,700 hotel rooms, control assets with a capital value in excess of NZD3.2 billion, generate annual revenue over NZD886 million and employ nearly 10,000 full and part time staff.

About the Inbound Tour Operators Council

- The Inbound Tour Operators Council of NZ was founded in 1971.
- It represents 250 tour operators and suppliers throughout the country who package, distribute and market New Zealand tourism products and services internationally.

If you have any queries, please don't hesitate to contact the undersigned.

Yours sincerely



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Chief Executive Officer
TIA



Rachael Shadbolt
Executive Officer
NZHC



Lesley Immink
Chief Executive Officer
ITOC

Submission

1. GST on cross-border supplies – Government Discussion Document

The Government's discussion document (*GST: Business-to-business neutrality across borders*) contains a number of proposals designed to make it easier for non-resident businesses to deduct GST incurred in New Zealand.

Currently non-resident businesses can only deduct GST if they become GST-registered in New Zealand and charge GST on supplies made in New Zealand.

Options being considered are:

1. Broadening the scope of the zero-rating rules.
2. Introducing an "enhanced" registration system for non-residents. This would be based on the current Australian system which allows non-residents to register for GST even if no taxable supplies are made in New Zealand.
3. Introducing a direct refund scheme, similar to that available under the VAT regime in the EU, which allows non-residents to claim refunds without the need to register for GST.

From the viewpoint of TIANZ, NZHC and ITOC members we would suggest options 2 or 3 are more likely to be preferred. This is due to the inherent risks associated with broadening the zero-rating rules (option 1).

The discussion document (paragraph 4.35) suggests that non-resident operators would not be entitled to register for GST (and claim GST deductions) if they on-sell tourism products in New Zealand to non-resident tourists. The GST rules currently provide for registration of such persons; however in our experience Inland Revenue has not enforced this rule.

This results in a competitive advantage to non-residents and has done so for many years. Consideration should be given to introducing changes which "level the playing field".

At a technical level sec 8(3) of the GST Act deems a non resident to make supplies "in New Zealand" (and therefore be liable to register and account for GST) if they supply services which are "physically performed in New Zealand by a person who is in New Zealand at the time the services are performed".

An **example** would be a non resident tourism wholesaler supplying accommodation to an inbound tourist where the accommodation is provided by a hotel owner in New Zealand. Such a wholesaler has a GST registration liability under the existing rules, and this has been the case since 1986. To our knowledge the IRD has never pursued registration of these sorts of non resident businesses.

To further illustrate the point, consider a comparison between a GST registered New Zealand tourism business, and a non registered, non resident, business selling the exact same product into the same market. Assume the product sells for \$1150 and each incurs costs of \$920 (incl GST).

	GST registered tourism business	Non registered, non resident business
Sales	1,000	1,150
Costs	800	920
Margin	200	230
GST paid to IRD	30	Nil

Note that the advantage enjoyed by the non registered, non resident supplier is exactly equal to the GST paid by the registered supplier.

Not allowing non resident tourism businesses to obtain refunds, as proposed in the Discussion Document, does nothing to remove the existing GST related advantage enjoyed by non residents. This unequal tax burden by GST registered tourism businesses has been exacerbated by the recent GST rate increase.

2. Inbound tour operators – opportunity to zero-rate services through agency

Inland Revenue treats inbound tour operators as principals in terms of acquiring services in New Zealand for on-supply to their offshore client. Hence Inland Revenue's conclusion is that inbound tour operators cannot zero-rate. However, it seems that a properly documented agency relationship would ensure that inbound tour operators are able to zero-rate their fees. ITOC would be keen to discuss how such an agency relationship might work in the future.

Once again, thank you for the opportunity to comment on these proposals and we look forward to hearing from you.

END