GOODS & SERVICES TAX (“GST”)

Key Concepts

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Outline

Key concepts in the GST Act 1985

GST Returns

Special cases

Practical issues

Questions

Key Concepts in the GST Act

Key Concepts in the GST Act

What is GST?

- A tax on consumption expenditure
- Arises when goods and services are supplied in the course of a taxable activity
- Ultimately meant to be paid by the final consumer

Key Concepts in the GST Act
Imposition of GST

Section 8 elements:

- GST is charged if there is:
  - supply
  - of goods or services
  - in New Zealand
  - by a registered person
  - in the course or furtherance of a taxable activity carried on by that person
  - [but not charged on an exempt supply]

Key Concepts in the GST Act

Registered person

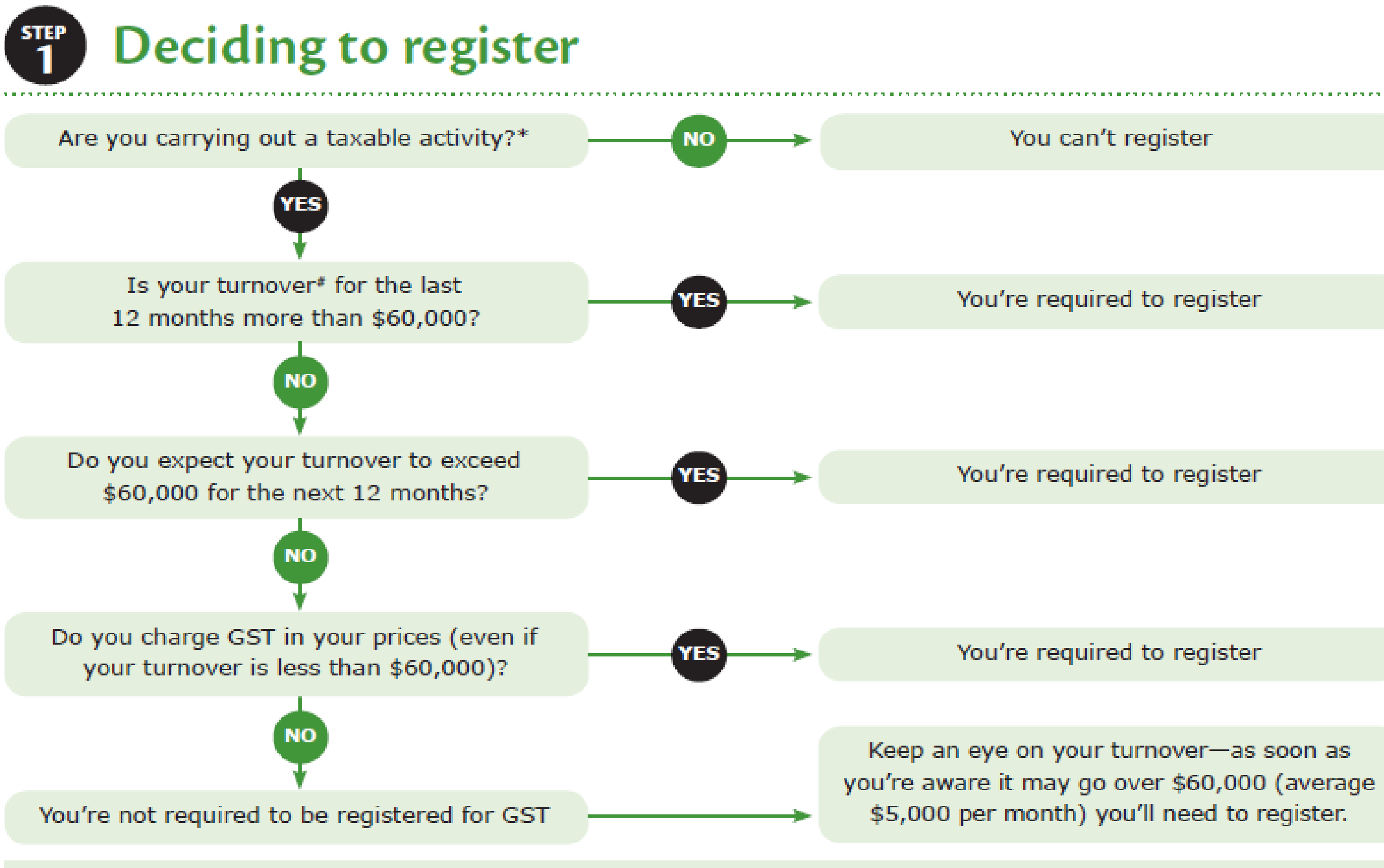
- Compulsory registration
  - Only GST registered person can charge GST.
  - The total value of supplies made in New Zealand in any 12 month period in the course of carrying on all taxable activities has exceed or is expected to exceed $60,000.

- Voluntary registration
  - Anyone who carries on any taxable activity or intends to carry any taxable activity can register for GST voluntary.

- Deemed registration
  - A person who is not otherwise a registered person but who supplies goods or services, representing that tax is charged on the supply

Core GST Concepts

Registered person



Key Concepts in the GST Act

Registered person

- Non-resident registration

- Special GST registration regime for non-residents came into effect on 1 April 2014.
- The regime enables non-resident business that do not make taxable supplies in New Zealand to claim GST incurred on goods and services acquired in New Zealand (something that has not been possible previously).
- Non-resident business will be able to register with IR if:
  - The non-resident is not carrying on or intending to carry on a taxable activity in New Zealand; and
  - The non-resident is registered for consumption tax in its own jurisdiction, or, if their jurisdiction does not have a consumption tax, is carrying on a taxable activity that would render them liable to register for GST in New Zealand if the taxable activity was carried out in New Zealand; and
  - The amount of the non-resident's input tax in the first period is likely to be more than NZ$500; and
  - The non-resident's taxable activity does not involve the performance of services which is likely to be received in New Zealand by a person who is not registered for GST.

Core GST Concepts

Taxable activity

- Any activity carried on continuously or regularly by any person for consideration
- Whether or not for profit
- Includes supply or intention to supply
- Includes anything done in connection with the beginning/ending of a taxable activity
- Does not include:
  - Private recreational pursuit/hobby
  - Occupation/employment
  - Exempt supplies
  - Outside the scope of supplies

Core GST Concepts

Goods and Services

- Goods = tangibles (i.e. real and personal property) excluding “money”
- Services = everything else except goods or money

- Why is the distinction important?
  - Importation
  - Second-hand goods
  - Zero-rating provisions
  - Time and value of supply

Core GST Concepts

Types of Supplies

Standard Rated (15%)

- Meet key elements of section 8
- Most common

Zero-Rated (0%)

- Zero output tax but input tax can be claimed
- E.gs exported goods, services performed outside NZ, land, going concerns

Exempt

- Not subject to GST, not able to claim input tax
- E.gs financial services, supplies of residential accommodation

Outside the Scope

- No GST applies
- E.g.s non-supplies, supplies by non-registered entities

Core GST Concepts

Time of supply

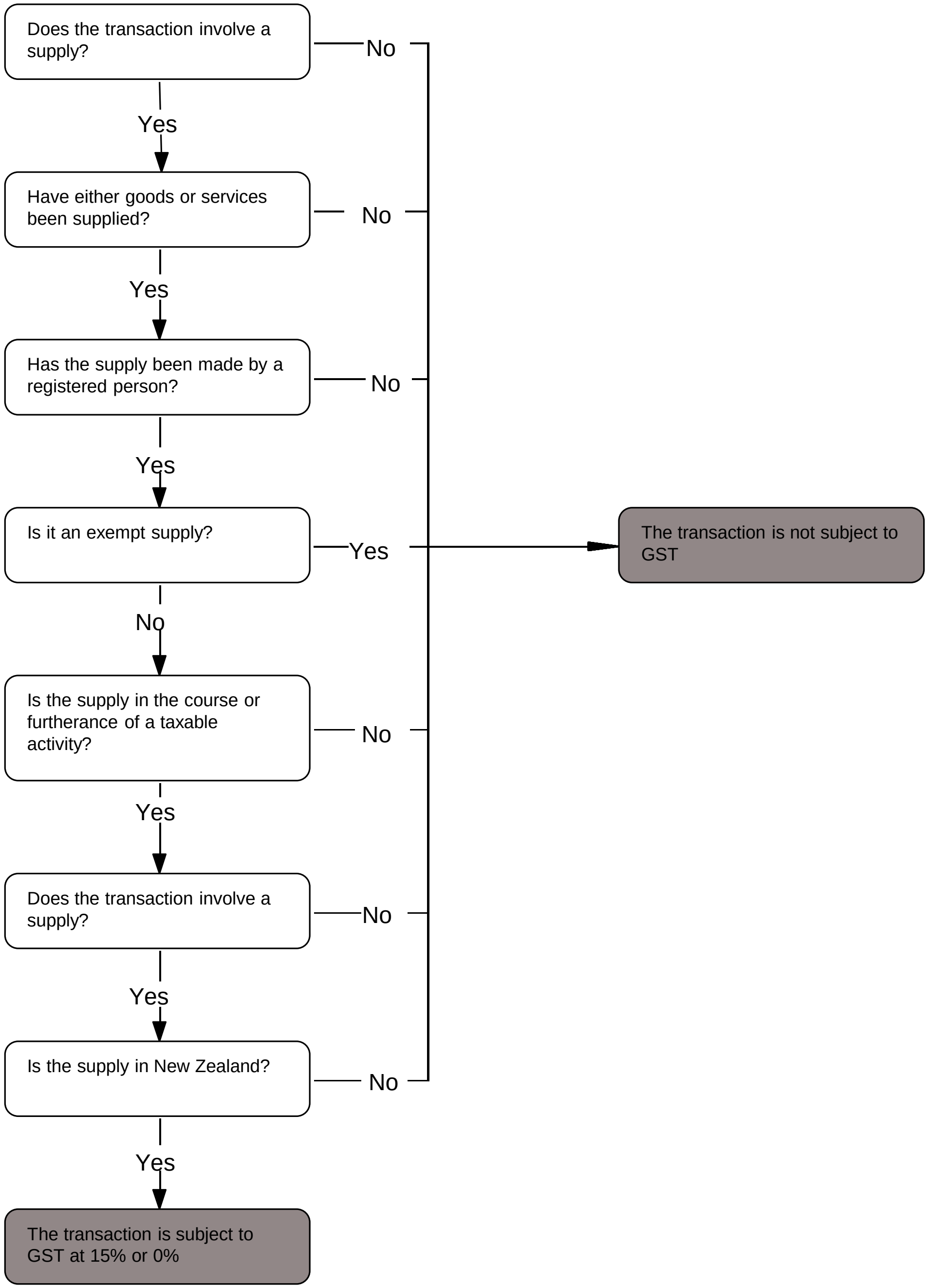
- Generally the time of supply is the earlier of:

a) The time an invoice is issued by the supplier or the recipient, or

b) The time any payment is received by the supplier

- Even if registered on an invoice basis
- The time of supply can be triggered at the time a deposit is paid (a liability to account for GST on the total purchase price

o The deposit must be applied to the benefit of the vendor before a time of supply is triggered. Therefore payment of the deposit to a stakeholder in relation to a conditional contract is not enough.


Does the transaction involve a supply?
No
Yes
Have either goods or services been supplied?
No
Yes
Has the supply been made by a registered person?
No
Yes
Is it an exempt supply?
Yes
The transaction is not subject to GST
No
Is the supply in the course or furtherance of a taxable activity?
No
Yes
Does the transaction involve a supply?
No
Yes
Is the supply in New Zealand?
No
Yes
The transaction is subject to GST at 15% or 0%

GST

GST Returns

Filing GST returns

- The number of GST returns to be filed each year depends on the annual value of supplies made in a 12 month period:

Return to be filed:	Value of taxable supplies
Six monthly	Less than $500,000 per annum
Two monthly	More than $500,000 per annum but less than $24m
Monthly	More than $24m

- Your filing period must align with your balance date, e.g. if you have a March balance date, six monthly will be from October – March, April to September, two monthly must cover February – March

GST returns

Accounting basis

- **Payment** – account for GST only when payment is made or received and can only claim GST incurred on purchases or expenses after making payment to the supplier. A registered person can account for GST on a payments basis where taxable supplies **do not exceed $2 million per annum**, or the registered person is a non-profit body.
- **Invoice** - generally account for GST on their sales in the earliest taxable period in which they issue a tax invoice for the supply, or receive any payment in respect of the supply (including a deposit). GST can be claimed on purchases in the earliest taxable period in which they receive a tax invoice, or make a payment, providing that a valid tax invoice is held at the time the GST return is lodged with Inland Revenue.
- **Hybrid** - accounting basis also exists, which requires output tax to be returned on an invoice basis, and input tax to be claimed on a payments basis.

GST returns

Input tax credits

- In order to claim an input tax deduction, one requires a valid tax invoice is held at the time of filing the GST return unless the value of the supply was less than $50.
- Generally, a registered persons have a two year period in which to claim back input tax credits.
- Tax invoice requirements

o The words “tax invoice” stated in a prominent place

o Name and GST number of the supplier

o Name and address of the recipient

o Date on which the tax invoice is issued

o Description of the supply

o The quantity or volume of goods and services supplied

o The GST amount or the GST inclusive amount (and a statement that the amount is GST inclusive)

EXAMPLE OF A TAX INVOICE

ABC ELECTRONICS ①

121 Main Street
WELLINGTON

P O Box 99
WELLINGTON

p: (04) 999 9999
f: (04) 988 8889

TAX INVOICE ②

To: Wyatt Firsound
712 John Street ⑤
WELLINGTON

GST Number:98-765-432 ③
Date: 24 March 2011 ④

Quantity	Description	Price	Total
4 ⑥	Video Camera ⑦	$1,200	$4,800 ⑧
	Subtotal		$4,800 ⑨
	Plus GST		$720
	Total Amount Due		$5,520 ⑩

① Name and address of the supplier

② The words "tax invoice"

③ Supplier's GST registration Number

④ Date of issue

⑤ Name and address of the recipient

⑥ Quantity of the goods supplied

⑦ Description of the goods or services

⑧ Amount, excluding tax, charged for the supply

⑨ GST Charged

⑩ Total amount payable

GST

Special cases

Special Cases

GST Grouping

- Criteria for companies registering as a group

  - The companies to be grouped must be at least 66% commonly owned
  - Each of the companies is a registered person or the total value of taxable supplies made by the companies is at least 75% of the total supplies made by the group to persons outside of the group
  - All members of the group must have the same taxable period and the same accounting basis for GST

- Effects of group registration

  - Transactions between group members will not have any GST
  - One member must be nominated to represent the group
  - The group representative is considered to conduct the activities of all the members and must account for GST on all the member’s taxable activities
  - Only one GST return is required to be filed
  - Members can be added or removed from the GST group

Special Cases

GST on imported goods

- NZ Customs collects GST at 15% on the value of all goods entered for home consumption in New Zealand. The value of the goods is the landed cost (customs value plus freight and insurance) plus any other duty.
- In the situation where the owner is GST registered, an input tax credit can be claimed for GST paid to NZ Customs, assuming the goods are used or made available for use in making taxable supplies.

Special Cases

Zero rating on exported goods and services

Exported Goods:

- In most cases the supplier needs to be the exporter
- Goods need to be exported with 28 days of the time of supply
  - Can be extended on application

Exported Services:

- Supplied to a non-resident
- Outside New Zealand at the time the services are performed
- Not directly in connection with land or moveable personal property in NZ

Special Cases

Zero rating land transactions

- Inland Revenue's focus area - Inland Revenue has been provided an extra $29 million in Budget 2015 to chase property investors. The extra $29 million of spending brings the department's total spending on chasing property investors over the next five years to $62 million and is forecast to generate about $420 million of extra tax in that period
- Still a common area of mistakes
- Section 11(1)(mb) requires that a GST registered person to charge GST at the rate of 0% on the supply of land to a registered person – who acquires land with the intention of making taxable supplies
- The recipient must provide a written statement to the supplier whether the recipient,

o Will be a registered person

o Is acquiring the land for making taxable supplies

o Does not intend using the land as a principal place of residence for them or an associate

- The supplier can rely on the information provided by the purchaser (with no obligation to verify the info provided by the supplier)

Special Cases

Zero rating land transactions

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Special Cases

Zero rating land transactions

- Consequences of getting it wrong:

- Where the transaction should have been zero rated and it wasn't, the purchaser may not be able to claim input tax on the purchase price.

- Where the transaction should not have been zero rated but it was, the purchaser may be required to pay output tax on the purchase price with no recourse from the vendor (i.e. the purchaser is treated as making a supply, the value of the supply will be the original purchase price). No deduction is allowed unless the property was later used for taxable supplies. If the purchaser was not registered for GST, he or she may be required to be registered.

- For example, person A (a GST registered person) purchases a property from person B (also GST registered) for commercial purposes and zero rates the purchase, $1.15m (inclusive of GST if any). It was later determined that person A was never intending to make any taxable supplies with the property and instead used the property for residential purposes. The sale should have been standard rated. Person A will be required to return output tax on the purchase price of the property $150,000,

Special Cases

Zero rating as going concern

- The supply of a taxable activity can be zero rated as the supply of a going concern only if:

  - A taxable supply to a registered person of the whole or part of a taxable activity that is a going concern at the time of supply
  - Agreement in writing by both parties to the transaction that the supply is one of a going concern and
  - A common intention between the parties that the supply is capable of being carried on as a going concern by the recipient

Special Cases

Second hand goods credit

- A registered person who purchases “second hand goods” in the course of a taxable activity may be able to claim a GST second hand goods credit, if

  - The goods will be used for making taxable supplies
  - The goods are in NZ
  - The supply is a non-taxable supply (e.g. a supply made by an unregistered person or an exempt supply)
  - The supply is by way of a sale, and
  - Payment has been made during the relevant taxable period
  - For example, a GST registered car dealer purchases a secondhand car from an unregistered person for $9,000. The car dealer will be able to claim an input tax of $1,174 (3/23 of 9,000)

- Full records of the purchase must be kept if a second hand goods credit is claimed

Special Cases

Change in use adjustment rules

- On the purchase of an asset a purchaser must determine the estimated usage of the item for their taxable supplies and their non-taxable supplies. Once calculated this is applied to determine the amount of input tax credit that can be claimed by the purchaser upfront.

o For example person A (registered for GST) purchases a new car for her 100% taxable business. The logbook of her old car shows that she used her old car 70% for business purposes and 30% for private purposes. She expects her new car to be used in the same way. She pays $20,000 plus $3,000 GST for the new car. She can claim 70% of the input tax (i.e. $2,100) in her GST return.

Special Cases

Change in use adjustment rules

- Subsequent change of use will also give rise to change of use adjustments.
- The change of use adjustments are required to be made at the end of an adjustment period if the value of the goods and services is more than $5,000. Adjustment is only required if:
  - The difference between the intended use on acquisition and actual percentage of use for the relevant adjustment period is 10% points or more, or is a lesser percentage and the resulting adjustment is more than $1,000.
  - Further to the example above, at the end of the first adjustment period person A actually used her car for 55% business purposes and 45% personal purposes. An adjustment will need to be made for $450 (percentage of difference is 15%, i.e. 0.15*3,000) which will be returned as output tax.
- The first adjustment period runs from the date of purchase through to either of the first or the second income tax balance date following that i.e. item brought April 2013, first adjustment date can be either 31 March 2014 or 31 March 2015.

Special Cases

Change in use adjustment rules

- Number of adjustments:

o No limit applies to land, i.e. land is subject to ongoing adjustments for the entire period of ownership.

o Other commodities:

a) 2 adjustment periods for goods valued at >$5,000 but <$10,000

b) 5 adjustment periods for goods valued at >$10,000 but <$500,000

c) 10 adjustment periods for goods valued at >$500,000

Or The number of years of the estimated useful life of the asset for income tax depreciation purposes.

*a person can choose either of the above approaches, but once chosen they cannot subsequently change it.

o In the example above, as person A acquired the car for $20,000 this means she will need to monitor its use for 5 adjustment periods

o Finally, after 5 years, person A sold the car for $10,000 (inclusive of GST). The final adjustment is required using the formula tax fraction * consideration * (1- actual deductions/full input tax deduction)

o i.e. 3/23 * 10,000 * (1-1650/3000) = $586.80

Special Cases

Business to business

The zero-rating rules allow providers to elect to zero-rate supplies of financial services to customers who:

- are registered for GST and predominantly (75% threshold) make taxable supplies i.e. the customer does not supply financial services themselves; or
- may not meet the 75% threshold but are part of a group that does meet the threshold e.g. the treasury or finance function of a group of companies that receives financial services
  - E.g. a bank lends $1,000 to Company A that is 100% taxable and $1,000 to Company B that is 50% taxable. Bank incurs $100 legal cost re Company A's loan and $100 cleaning costs (excluding GST). If B2B elected, the bank will be able to claim $15 of GST on the legal cost and $7.5 on the cleaning costs.
- There is no down side to a B2B election

Special Cases

Reverse charge

- The "**reverse charge**" mechanism taxes certain imports of services e.g. management, legal and accounting services, a new software installation or products downloaded via the internet.
- GST registered recipients of supplies of imported services are required to add GST to the price of the services purchased and include the tax in the normal GST return and pay it to Inland Revenue if:

  - the services would be subject to GST if supplied in New Zealand; and
  - the recipient makes more than 5% of exempt or other non-taxable supplies.
  - E.g. a GST registered person (person A) makes 80% taxable supplies and 20% exempt supplies. As it makes more than 5% exempt supplies it is prima facie subject to the reverse charge rules. Person A acquires IT services from China for $100NZD. Person A will be deemed to have made a supply on this service and be required to return GST on the supply, i.e. person A will need to return $15 as output tax (0.15*100). However, because person also makes 80% taxable supplies, it can also claim input tax on the supply of $12 (0.8*15).

Special Cases

GST on entertainment

- Claim input tax on full amount of entertainment expenditure upfront
- Yearly adjustment: return output tax on non-deductible portion
- Include in GST return, the earlier of:
  - The GST return that covers the date on which the income tax return is filed; or
  - The GST return that covers the month in which the income tax return is due, whichever is the earlier
- E.g. $200 (GST exclusive) entertainment expenditure, $30 input tax claimed upfront, $100 is non-deductible for income tax purposes, 3/23rd of $100 (i.e.$13) is deemed GST output tax which will need to be returned as output tax in the GST return.

GST on Fringe Benefits

GST on fringe benefits

- Providing or granting of a fringe benefit is treated as a supply of goods or services.
- Claim the input tax at the time the expense was incurred (the vehicle purchase or leasing costs)
- GST calculated on the fringe benefit is an output tax to reflect that you are treated as making a taxable supply (providing the vehicle to the individual).
- GST calculated on your FBT return should never be taken into account on your GST returns. You cannot claim the GST output on the fringe benefits.

GST

Practical issues

Common GST Errors

- Not holding a valid tax invoice when claiming input tax.
- Accounting for output tax in the wrong period.
- Not accounting for GST on the full value of the supply when receiving a deposit.
- Inadequate documentation to support rebates / commission / prompt payment discounts.
- Incorrectly classifying supplies e.g. treating a supply as zero-rated when it should be subject to GST at the standard rate.
- Not reconciling the GST returns to the financial statements.
- Accounting for GST on fringe benefits incorrectly.
- Not making a GST adjustment for non-deductible entertainment expenditure.
- Incorrectly applying apportionment methods.
- Failing to run an accrual report to pick up invoices that are received/processes late.

Common GST Errors

Correcting errors

Input Tax

- 2 years to claim is general rule
- However, 2 year rule does not apply where deduction was not taken because of inability to obtain a tax invoice, a dispute over payment, a mistaken understanding that supply was not taxable or clear mistake or simple oversight

Output Tax

- Less than $500 next return
- Should do voluntary disclosure

Timebar

- Assessment can be increased for 4 years
- No limit on decreasing an assessment

Common GST Errors

Implications

Errors could lead to:

- Shortfall GST being due
- Potential penalties being applied
- Use of money interest levied
- 4 year period which Inland Revenue can assess
- Damage to reputation and its relationship with Inland Revenue

Questions?

Your friendly neighbourhood GST team

Subtitle runs here

Role

Name Surname
Job title
Country or Office

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Deloitte.

Appendix
Icons