

# Hon Stuart Nash, Minister of Revenue

## Information Release

### Goods and Services Tax (Grants and Subsidies) Amendment Order 2020

July 2020

#### Availability

This information release is available on Inland Revenue's Tax Policy website at <https://taxpolicy.ird.govt.nz/publications/2020-ir-cab-20-sub-0118/overview>

The documents were also released on 8 May 2020 on the Government's COVID-19 website at <https://covid19.govt.nz/updates-and-resources/legislation-and-key-documents/proactive-release/>

#### Documents in this information release

1. IR2020/159 – Tax policy report: Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 (17 March 2020)
2. CAB-20-SUB-0118 – Cabinet paper: Order in Council: Goods and Services Tax (Grants and Subsidies) Amendment Order 2020, and amended application dates (23 March 2020)
3. CAB-20-MIN-0118 – Minute: Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 (23 March 2020)

#### Additional information

The Cabinet paper was considered and confirmed by Cabinet on 23 March 2020.

One attachment to the Cabinet paper is not included in this information release as it is publicly available:

- Goods and Services Tax (Grants and Subsidies) Amendment Order 2020

#### Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

- 9(2)(a) to protect the privacy of natural persons, including deceased people

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## POLICY AND STRATEGY

**Tax policy report:** **Draft Cabinet paper – COVID-19 – Order in Council to exclude the Wage Subsidy and Leave Payment from the application of GST**

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<b>Date:</b>	17 March 2020	<b>Priority:</b>	High
<b>Security level:</b>	Sensitive	<b>Report number:</b>	IR2020/159

### Action sought

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	<b>Action sought</b>	<b>Deadline</b>
Minister of Revenue	<p><b>Agree</b> to the recommendation</p> <p><b>Authorise</b> the lodgement of the attached Cabinet paper</p> <p><b>Refer</b> a of this report to the Minister of Finance</p>	<p>10am Thursday 19 March 2020</p>

### Contact for telephone discussion (if required)

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<b>Name</b>	<b>Position</b>	<b>Telephone</b>
Brandon Sloan	Principal Policy Advisor	s 9(2)(a)
s 9(2)(a)	Policy Advisor	

17 March 2020

Minister of Revenue

## **Draft Cabinet paper – COVID-19 – Order in Council to exclude the Wage Subsidy and Leave Payment from the application of GST**

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1. This report asks you to approve and lodge the attached Cabinet paper with the Cabinet Office by 10am Thursday 19 March for consideration at the Cabinet meeting on Monday 23 March 2020.
2. The Cabinet paper seeks Cabinet's agreement to an Order in Council which amends the Goods and Services Tax (Grants and Subsidies) Order 1992 to exclude the COVID-19 Wage Subsidy and the COVID-19 Leave Payment from the application of GST. The scope and design of these payments were agreed to by Cabinet on 16 March 2020, and it was noted at the time Cabinet made decisions that the tax implications of these payments would need to be determined, with possible subsequent amendments being necessary.
3. The amendments will enable GST-registered businesses to use the full amount of the payments received under either of the schemes to adjust to the impact of COVID-19 and provide financial support to their employees.
4. In absence of the Order in Council, GST-registered businesses would be required to account for output tax on the payments received. The amendments ensure fairness between businesses that are registered for GST and those that are not, and will minimise compliance costs. These amendments are consistent with the approach taken for the wage subsidies developed in response to the Hurunui/Kaikoura and Canterbury earthquakes.
5. It is proposed that the Order in Council be made as soon as practicable to ensure that the GST treatment of the payments is clear. Furthermore, as the Order in Council cannot have retrospective effect, we propose an amendment be included in the Bill containing tax measures in response to COVID-19 to specify that the Order in Council applies in respect of payments made before the Order in Council comes into force. This will ensure that any payments made between 17 March 2020 and the date the Order in Council comes into force will also not be subject to GST.
6. We have also provided your office with speaking notes for you to take to Cabinet on 23 March 2020 which cover the purpose of, and reasons for, the Order in Council.

### **Fiscal implications**

7. The recommendations in this report do not have a revenue or any other fiscal effect.

### **Consultation**

8. The Treasury was consulted and agrees with the recommendations in this report. The Ministry of Social Development and the Ministry of Business, Innovation and Employment were informed.

## Recommended action

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We recommend that you:

- (a) **agree** to the amendments proposed in this report and draft Cabinet paper to exclude the COVID-19 Wage Subsidy and COVID-19 Leave Payment from the application of GST;

Agreed/Not agreed

- (b) **agree** that an amendment should be included in the upcoming Bill containing tax measures in response to COVID-19 to ensure that payments made to businesses before the Order in Council comes into force are not subject to GST;

Agreed/Not agreed

- (c) **sign** and **refer** the attached Cabinet paper to the Cabinet Office by 10am Thursday 19 March 2020;

Signed and referred/Not signed and referred

- (d) **refer** a copy of this report to the Minister of Finance for his information;

Referred/Not referred

- (e) **note** speaking notes are attached for you to take to Cabinet on 23 March 2020.

Noted

### **Brandon Sloan**

Principal Policy Advisor

Policy and Strategy

### **Hon Stuart Nash**

Minister of Revenue

/ /2020



Sensitive

Office of the Minister of Revenue

Cabinet

## **ORDER IN COUNCIL: GOODS AND SERVICES TAX (GRANTS AND SUBSIDIES) AMENDMENT ORDER 2020, AND AMENDED APPLICATION DATES**

### **Proposal**

1. This paper seeks Cabinet's agreement to submit an Order in Council amending the Goods and Services Tax (Grants and Subsidies) Order 1992 to the Executive Council. The amendment would exclude the following payments from the application of goods and services tax:
  - 1.1 the COVID-19 Wage Subsidy as referred to in the Cabinet paper titled "COVID-19 financial support, Paper A: Business Continuity Package: Targeted wage subsidy scheme"; and
  - 1.2 the COVID-19 Leave Payment as referred to in the Cabinet paper titled "COVID-19: Financial Support Paper B: COVID-19 Leave Payment Scheme".
2. The design and scope of these payments were both agreed to by Cabinet on 16 March 2020.
3. It also seeks Cabinet's agreement to amend application dates for certain COVID-19 related tax measures approved by Cabinet on 16 March 2020 (CAB-20-MIN-0103 and CAB-20-MIN-0108 refers).

### **Policy**

#### **Excluding goods and services tax (GST) from the Wage Subsidy and the Leave Payment**

4. The Goods and Services Tax Act 1985 generally treats any government grant or subsidy payment as subject to GST when received by a GST-registered person such as a business. Recognising that this approach might not always be appropriate from a policy perspective, the Goods and Services Tax Act 1985 allows certain grants and subsidies to be excluded from the application of GST through an Order in Council which specifically lists the grants and subsidies to which GST should not apply.
5. I propose an Order in Council be made to amend the Goods and Services Tax (Grants and Subsidies) Order 1992 to add the COVID-19 Wage Subsidy and the COVID-19 Leave Payment ("the payments") to the schedule of grants and subsidies which are not subject to GST.

6. In absence of the amendments, GST-registered businesses would be required to account for output tax on the payments received. Therefore, the effect of these amendments is to allow GST-registered businesses to use the full amount of the payment received to provide financial support to their employees during self-isolation (in the case of the Leave Payment) and to assist in adjusting to the impact of COVID-19 (in the case of the Wage Subsidy). It will ensure fairness between businesses that are registered for GST and those that are not, and will minimise compliance costs.
7. This approach is consistent with the approach taken in respect of the subsidies provided to businesses impacted by the Hurunui and Kaikoura earthquakes in 2016, which were also not subject to GST.
8. Finally, I also propose that this GST treatment apply in respect of the payments made under both schemes, which have been available since 17 March 2020. The Order in Council will ensure no payments made from the date it comes into force will be subject to GST. This will provide businesses with immediate certainty regarding the GST treatment of these payments.
9. A further legislative amendment is necessary to ensure that payments made before the Order in Council comes into force will also not be subject to GST. I propose this amendment be included in the bill containing tax measures in response to COVID-19 that was agreed to by Cabinet on 16 March 2020, and which is to be introduced in early April.

#### **Amending the application dates for COVID-19 tax measures**

10. On 16 March 2020 Cabinet agreed that the provision allowing Inland Revenue to share information with other departments for COVID-19 should apply from the date of enactment (CAB-20-MIN-0103 refers). The information sharing should instead apply from the date of announcement of the payments on 17 March 2020. The information sharing will enable Inland Revenue to disclose employer and employee information to the Ministry of Social Development, and is especially important in limiting the risk of fraud.
11. Cabinet also agreed on 16 March 2020 to increase the low-value asset write-off threshold from \$500 to \$5,000 for the 2020-21 income year, and then reducing it to \$1,000 for the 2021-22 and later income years (CAB-20-MIN-0108 refers). This increase to \$5,000 should instead apply for property acquired within 12 months of the announcement date, 17 March 2020. At the end of this 12-month period, the threshold should be reduced to \$1,000. This will mean that businesses' purchasing decisions are treated equally for these purposes rather than being affected by their balance dates.

#### **Fiscal cost**

12. There is no fiscal cost of the proposal in this paper. GST revenue from the COVID-19 Wage Subsidy and COVID-19 Leave Payment is not built into the revenue forecasts. Consequently, removing GST from the subsidies will have no effect on forecasts.



## Timing and 28-day rule

13. A waiver of the 28-day rule is sought because of the urgency of the move, and the power it confers will apply to events before the making of the Order. A waiver of the 28-day rule will enable the Order to take effect on the day of its notification in the *Gazette*.

## Compliance

14. The Order in Council complies with the following:

14.1 The principles of the Treaty of Waitangi	Not applicable
14.2 The rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993	Not applicable
14.3 The principles and guidelines set out in the Privacy Act 1993	Not applicable
14.4 Relevant international standards and obligations	Not applicable
14.5 The Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee	Compliant

## Regulations Review Committee

15. Officials believe there are no grounds for the Regulations Review Committee to draw the Order in Council to the attention of the House under Standing Order 319.

## Certification by Parliamentary Counsel

16. The regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet, except that they will come into force earlier than the 28<sup>th</sup> day after the date of their notification in the *Gazette*.

## Impact Analysis

17. The proposal does not require the preparation of a regulatory impact assessment.

## Proactive Release

18. I propose to proactively release this Cabinet paper, associated minutes, and key advice papers in whole within 30 working days of Cabinet making final decisions.

## Consultation

19. Inland Revenue officials have consulted with the Treasury who agreed with the proposal in this paper. Inland Revenue officials have also informed the Ministry of Social Development and the Ministry of Business, Innovation and Employment.

## Recommendations

I recommend that Cabinet:

1. note that on 16 March 2020 Cabinet agreed to the introduction of the COVID-19 Wage Subsidy scheme;
2. note that on 16 March 2020 Cabinet agreed to the introduction of the COVID-19 Leave Payment scheme;
3. note that an Order in Council under the Goods and Services Act 1985 is required to declare that the COVID-19 Wage Subsidy and the COVID-19 Leave Payment (“the payments”) will not be subject to goods and services tax (GST);
4. authorise the submission to the Executive Council of the Goods and Services Tax Grants and Subsidies) Amendment Order 2020;
5. note that applications for the COVID-19 Wage Subsidy scheme and COVID-19 Leave Payment scheme opened on 17 March 2020;
6. agree that the Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 should apply in respect of all payments made under the schemes in recommendations 1 and 2 from the date the Order comes into force;
7. agree that an amendment should be included in the Bill containing tax measures agreed to by Cabinet on 16 March 2020 which ensures that GST does not apply to the payments made between 17 March 2020 and the date the Order comes into force;
8. note that a waiver of the 28-day rule is sought because of the urgency of the move, and the power it confers will apply to events before the making of the Order; and
9. agree to waive the 28-day rule so that the Order can come into force on the day of its notification in the *Gazette*;
10. note that on 16 March 2020, Cabinet agreed that the provision allowing Inland Revenue to share information for COVID-19 outbreak related purposes should apply from the date of enactment (CAB-20-MIN-0103 refers);
11. agree that Cabinet rescind the decision referred to in recommendation 10 and instead agree to enable Inland Revenue to share information for COVID-19 outbreak related purposes from the date of announcement, 17 March 2020;
12. note that on 16 March 2020, Cabinet agreed that the threshold for low-value asset write-off threshold be increased from \$500 to \$5,000 for the 2020-21 income year, reducing to \$1,000 for the 2021-22 and later income years (CAB-20-MIN-0108 refers); and

13. agree that Cabinet rescind the decision referred to in recommendation 12 and instead agree to the threshold being \$5,000 for property acquired within 12 months of the announcement date (17 March 2020), and at the end of this 12-month period the threshold should be reduced to \$1,000.

Authorised for lodgement

Hon Stuart Nash  
Minister of Revenue





# Cabinet

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### Goods and Services Tax (Grants and Subsidies) Amendment Order 2020

**Portfolio**                      **Revenue**

On 23 March 2020, Cabinet:

- 1        **noted** that on 16 March 2020 Cabinet agreed:
  - 1.1      to the introduction of the COVID-19 Wage Subsidy scheme;
  - 1.2      to the introduction of the COVID-19 Leave Payment scheme;

[CAB-20-MIN-0103, CAB-20-MIN-0105, CAB-20-MIN-0108]
- 2        **noted** that an Order in Council under the Goods and Services Act 1985 is required to declare that the COVID-19 Wage Subsidy and the COVID-19 Leave Payment (“the payments”) will not be subject to goods and services tax (GST);
- 3        **authorised** the submission to the Executive Council of the Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 [PCO 22809/5.0];
- 4        **noted** that applications for the COVID-19 Wage Subsidy scheme and COVID-19 Leave Payment scheme opened on 17 March 2020;
- 5        **agreed** that the Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 apply in respect of all payments made under the schemes in paragraph 1 from the date the Order comes into force;
- 6        **agreed** that an amendment should be included in the Bill which contains the tax measures agreed to by Cabinet on 16 March 2020 which ensures that GST does not apply to the payments made between 17 March 2020 and the date the Order comes into force;
- 7        **noted** that a waiver of the 28-day rule is sought because of the urgency of the move, and the power it confers will apply to events before the making of the Order;
- 8        **agreed** to a waiver the 28-day rule so that the Order can come into force on the day after its notification in the Gazette;
- 9        **noted** that on 16 March 2020, Cabinet agreed that the provision allowing Inland Revenue to share information for COVID-19 outbreak related purposes should apply from the date of enactment [CAB-20-MIN-0103];

- 10 **agreed to:**
- 10.1 rescind the decision referred to in paragraph 9; and instead
  - 10.2 enable Inland Revenue to share information for COVID-19 outbreak related purposes from the date of announcement, 17 March 2020;
- 11 **noted** that on 16 March 2020, Cabinet agreed that the threshold for low-value asset write-off threshold be increased from \$500 to \$5,000 for the 2020-21 income year, reducing to \$1,000 for the 2021-22 and later income years [CAB-20-MIN-0108];
- 12 **agreed to:**
- 12.1 rescind the decision referred to in paragraph 11; and instead
  - 12.2 the threshold being \$5,000 for property acquired within 12 months of the announcement date (17 March 2020), and at the end of this 12-month period the threshold should be reduced to \$1,000.

Michael Webster  
Secretary of the Cabinet