

9 September 2025

Tax Technical
Inland Revenue Department

By email: public.consultation@ird.govt.nz

Tēnā koe,

PUB00520 – GST – Meaning of Payment

1. The New Zealand Law Society Te Kāhui Ture o Aotearoa welcomes the opportunity to comment on PUB00520: GST – Meaning of payment.
2. This submission has been prepared with the input of the Law Society's Tax Law Committee, and offers brief comment on the position in respect of payments to stakeholders.
3. Paragraphs 52-55 of PUB00520 refer to the position when a payment is made to a stakeholder. It notes, at paragraph 53:

*For example, where a deposit is paid to a real estate agent for the purchase of land, the real estate agent may hold the deposit **for the parties** as a stakeholder. A stakeholder generally holds the amount in a contractual or quasi-contractual capacity **for the supplier and recipient**, not as agent for the supplier. [emphasis added],*

4. However, it goes on to state, at paragraph 54:

Where the recipient of a supply makes a payment to a stakeholder, they have made a payment for GST purposes – even though the supplier has not yet received the payment.

5. Our view is that the recipient cannot be treated as making a payment which can support an input tax credit claim at the time it makes a payment to the stakeholder because:
 - The stakeholder holds the payment for both parties, including the recipient of the supply. While the amount is held for the recipient, they cannot be treated as having paid it. This position is consistent with the position (as set out in PUB00520 and in IS 10/03) that the payment has not been received by the supplier when it is held by the stakeholder for both parties.
 - In circumstances where no invoice has been issued for the supply, the payment to the stakeholder does not trigger the time of supply, and so the payment cannot be a payment in respect of a supply which meets the requirements to claim input tax under section 20(3)(a)(ia) and (b)(i) of the Goods and Services Tax Act 1985 (as there is no supply recognised for GST purposes at that point).
6. In addition, paragraph 54 of PUB00520 states “*The supplier does not receive the payment for GST purposes unless and until the stakeholder pays the amount to the supplier*”. We consider that the amount does not need to be actually paid to the supplier to constitute payment

received by the supplier. It will be a payment to the supplier once the stakeholder holds or applies it for the supplier's benefit. For example, once an agreement becomes unconditional and the stakeholder's obligations are at an end, the amount is held for the supplier's benefit and the payment is received by the supplier from that point in time (see paragraph 51 of IS 10/03).¹

7. Should you wish to discuss any aspect of this feedback, please contact Aimee Bryant, Manager Law Reform and Advocacy (aimee.bryant@lawsociety.org.nz).

Nāku noa, nā



David Campbell
President

¹ For a more detailed discussion of case law, see Neil Russ *GST – A practical guide* (11th ed, Wolters Kluwer, Auckland, 2025), Chapter 4.