

18 April 2008

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## Venue Expenses – Consultation on GST Amendment to the Gazette Notice

### The Amendment

A Working Party made up of Departmental and sector representatives has finished a review of how the *Limits and Exclusions on Class 4 Venue Costs Notice 2 September 2004* (the Gazette Notice) has functioned since its introduction. In its agreed report of 9 November 2007, the Working Party agreed, amongst other outcomes, to clearly specify the place of GST in the Gazette Notice.

Following the responses from some societies, the Department has decided to progress an amendment to the Gazette Notice regarding GST separate from the other outcomes of the Working Party process. This is intended to eliminate ambiguity and ensure a consistent sector application of the Gazette Notice Limits on a GST **exclusive** basis.

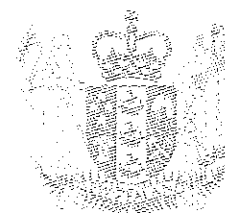
### Background

The Department wrote to societies in November 2006 and January 2007 advising that it would be closely monitoring societies' compliance with the Gazette Notice. With particular regard to the 16% threshold of Limit D (which came into effect 1 December 2005), the Department sought and obtained confirmation from all societies on the actual percentage of GMP paid as venue payments to venues.

From the responses the Department received, it appeared that the majority of societies calculated their venue payments on a GST exclusive basis as intended and a small number on a GST inclusive basis as was not intended.

Although the Gazette Notice is silent on the GST component of the 16% Limit, it had been assumed that societies would, in accordance with commonly accepted accounting practices, calculate the 16% Limit on a GST **exclusive** basis. In addition, the educational material put out by the Department around the time the Limits were introduced explicitly stated the calculations were to be made on a GST exclusive basis.

The Department regrets that the Gazette Notice was not originally clearer on the issue of GST. It is also unfortunate that some societies have chosen to interpret the application of GST in a different fashion.



### Retrospective Payments

The Department congratulates those societies that met the Limit D requirement on a GST exclusive basis. In complying with the intent of the Gazette Notice they have helped maximise returns to the community. As noted above, it is unfortunate that other societies have misread the intent of the Gazette Notice. The Department recognises that this difference in application between societies has resulted in an uneven 'playing field'.

However, for the avoidance of doubt, it is noted that now making any retrospective payments to venues to recognise a GST inclusive calculation of Limit D for any past period would be:

- a) inconsistent with the spirit of the legislation;
- b) inconsistent with the requirement to maximise community return;
- c) highly unlikely to be an actual, reasonable and necessary cost; and
- d) not in keeping with what is now the widely understood intent of the Gazette Notice.

### The Consultation

We attach the proposed amended Gazette Notice with the changes highlighted. If gazetted, the Department will expect immediate compliance with this amendment. As such, consideration of any necessary operating adjustments should begin now.

Following extensive consideration and consultation with the Working Party, the Department is not aware of any reason why this amendment should not go ahead. However, we invite comment on the proposal and in the interest of clarifying the position as soon as possible, seek any comments on the proposed amendments by no later than Friday, 9 May 2008. Submissions can be sent to:

Helen Baylis  
Executive Officer  
Operational Policy, Gambling Compliance Group  
PO Box 805  
Wellington

If you have any queries about this process, please contact Angus Hyatt, Senior Advisor, Operational Policy on (04) 495 7271.

We look forward to receiving any submissions you may have.

Yours sincerely



Mike Hill  
Director  
Gambling Compliance Group

### Limits and Exclusions on Class 4 Venue Costs

Pursuant to section 116 of the Gambling Act 2003, I, xxx, Manager - Gaming Operational Policy, Department of Internal Affairs, acting under authority delegated to me by the Secretary for Internal Affairs, give notice that the following limits and exclusions on the costs that may be incurred by a corporate society that conducts class 4 gambling have been set.

1. This notice applies only to costs associated with class 4 venues in respect of which a venue agreement is required under the Gambling Act 2003.
2. A corporate society, when incurring costs associated with class 4 venues, must not incur costs of:
  - (a) more than (GST exclusive) \$0.60 per gaming machine per hour of gaming machine operation in Hourly Operating Costs (Limit A);
  - (b) more than (GST exclusive) \$75.00 per gaming machine per week for Weekly Operating Costs (Limit B);
  - (c) more than (GST exclusive) \$800.00 per venue per week for Venue Operating Costs (Limit C); and
  - (d) more than 16% of the [GST exclusive turnover from all class 4 gambling conducted by that corporate society in any 12-month period, less the GST exclusive prizes paid] in that period (Limit D)
3. A corporate society, when incurring costs associated with a class 4 venue, must not:
  - (a) incur costs that are not Hourly Operating Costs, Weekly Operating Costs or Venue Operating Costs;
  - (b) incur costs that are Hourly Operating Costs, Weekly Operating Costs or Venue Operating Costs for services performed at class 4 venues in the operation of class 4 gambling except for those made within the limits set out in (2) (a), (2) (b), (2) (c) and (2) (d);
  - (c) reimburse costs of a venue operator that the venue operator is not liable for under the venue agreement or that are not actually incurred by the venue operator; or
  - (d) incur the same cost simultaneously in more than one of the categories specified in (2) (a)-(c).
4. For the purposes of this notice:

**"Hourly Operating Costs"** are:

  - (i) labour costs for the performance of tasks required for the hourly operation of machines;
  - (ii) electricity costs of operating gaming machines; and
  - (iii) fees, for managing the provision of the services specified in (4) (i) and (4) (ii), not exceeding 25% of the sum of (4) (i) and (4) (ii).

**"Weekly Operating Costs"** are:

  - (iv) labour costs for the performance of tasks required for the weekly management of machines;
  - (v) rent or lease payments for hosting gaming machines;
  - (vi) insurance costs;
  - (vii) interest costs; and
  - (viii) fees, for managing the provision of the services specified in (4) (iv)-(vii), not exceeding 25% of the sum of (4) (iv), (4) (v), (4) (vi) and (4) (vii).

**"Venue Operating Costs"** are:

  - (ix) labour costs for the performance of tasks required for the weekly provision of a venue;
  - (x) security costs;

- (xi) developments and/or enhancements and/or maintenance of the venue; and
- (xii) fees, for managing the provision of the services specified in (4) (ix)-(xi), not exceeding 25% of the sum of (4) (ix), (4) (x) and (4) (xi).

5. The limits and exclusions in this notice take effect on xxx.

Dated at Wellington xxx.

xxx, Manager, Gaming Operational Policy, Department of Internal Affairs