

# Appendix One - Summary of findings

Area of focus	Our observation	Our recommendation	Action taken by Council
<b>GST</b>			
<b>Insurance proceeds</b>	<p>Council has over-returned GST on certain insurance proceeds received as a portion of the proceeds relate to an insurance premium where no GST was charged.</p> <p>Please refer to 'Section 3.1' for further comments.</p>	Please refer to 'Section 3.1' for further comment.	Confirmation has been received from Aon in regard to which payments were from overseas insurer. One item was identified and the GST return has now been correct for this.
<b>Procedural documentation</b>	<p>Council does not have a formalised procedural document for the preparation of Council's GST return.</p> <p>This potentially exposes Council to a key person risk, should the GST return preparer be absent for an extended period of time, or leave the organisation, as there is no covering personnel or documentation to ensure GST returns continue to be filed accurately and on time.</p> <p>This highlights the importance of having a procedural document to enable the continuity of Council's GST compliance. We note this matter was also identified in our previous tax compliance report.</p>	We recommend that Council expedite the development of a formal procedural document. Importantly, it should be detailed enough to enable another member of the Finance team, who has never prepared the GST return, to follow the document to correctly prepare and file the GST return.	Agreed. Formal procedural documentation on Council GST will be prepared in October.

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<p><b>Rates in advance</b></p>	<p>Council collects its rates via a shared invoicing arrangement with a number of TAs in the region, and the TAs also collect the rates on behalf of Council. The TAs advise Council, on a monthly basis, of the value of rates collected during the period.</p> <p>Council returns GST on rates based on the information provided by the TAs. The breakdown provided to Council shows the amount of rates invoiced and the amount of rates received for the period; however, no further breakdown is given regarding how much of the rates were received in advance of an invoice being issued. In this regard, Council does not return GST on rates received in advance.</p> <p>Rates has special GST time of supply rules, but is generally triggered at the earlier of the rates instalment tax invoice being issued or any receipt of payment. Where rates are received in advance of the rates instalment invoice, GST should be accounted for on those 'pre-paid' rates in the GST return in which the payment is made by the ratepayer.</p> <p>While we appreciate Council's reliance on the information provided by the TAs, Council has a time of supply exposure as GST on rates is being returned later than required.</p>	<p>We recommend that Council request that the TAs provide a breakdown of the rates received in advance of an invoice being issued, in addition to the information requested. Council should then ensure GST output tax is also returned on those rates.</p>	<p>Agree. Although this is technically right, it is not practical for TAs to provide the schedules for the pre-paid rates. In reality, the amount for pre-paid rates prior to their invoice would be minimal therefore immaterial to be adjusted for GST.</p>

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<p><b>Rates on residential properties</b></p>	<p>Council owns a small number of residential properties across its region. As part of the TA rating process, rates (including its own rates) is charged to its residential properties.</p> <p>Technically, Council cannot make a supply to itself and therefore, should not charge GST to itself on rates in relation to those properties.</p> <p>Whilst Council receives the relevant information to make the GST adjustment, Council does not claim GST on those rates as it relates to an exempt supply for GST purposes.</p>	<p>We recommend that Council include an adjustment in its GST returns to correct this error, prospectively.</p> <p>Further, we recommend that Council quantify the GST over-returned on rates charged on Council-owned residential properties over the last four years<sup>1</sup> and submit a voluntary disclosure to Inland Revenue to have the over-returned GST refunded with use-of-money-interest.</p>	<p>We will make an annual adjustment for the current year's overpaid GST on rates.</p> <p>As at now, Council owns 30 residential properties in total. Assume on average, GWRC's rates are \$500 per annum per property. In total, Council paid for its own rates works out to be \$15,000 and \$1,956 for GST.</p> <p>Although, technically the Council is entitled for the refunds (less than \$2000 per annum) for the previous years' overpayments, considering the costs and benefits, it suggests that we retain our 'refund buffer' to offset future expected liabilities.</p>

<sup>1</sup> New proposed tax legislation may allow Council to claim back GST output tax on rates charged to Council-owned properties for an additional four-year period.

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<p><b>Apportionment on overheads</b></p>	<p>Council has an agreed GST apportionment methodology with Inland Revenue in relation to overhead costs that relate partially to making exempt supplies (Letter from Inland Revenue dated 5 March 2014).</p> <p>Council is required to undertake a monthly GST adjustment and an annual GST 'wash-up' calculation in June each year to ensure the net amount of GST has been claimed on overhead expenditure for the year. The result of the 'wash-up' will also determine the adjustment for the upcoming year.</p> <p>Council has not adjusted its GST apportionment calculation since the agreed methodology was first agreed, nor has it been completing the annual 'wash-up' calculation.</p> <p>This potentially exposes Council to a GST risk as the incorrect GST apportionment adjustments have been recurring in its GST returns since June 2014.</p>	<p>We recommend that Council:</p> <ul style="list-style-type: none"> <li>• Undertake a re-calculation exercise based on the approved apportionment methodology to determine the appropriate GST adjustments that should have been made.</li> <li>• Council may wish to consider submitting a voluntary disclosure to Inland Revenue, if appropriate;</li> <li>• Incorporate the 'annual wash up' calculation in the GST return procedures and procedural documentation; and</li> <li>• Update the calculation of the apportionment adjustments for the current year based on a renewed 'wash up' calculation and approved apportionment methodology.</li> </ul>	<p>Council plans to review the basis of the GST apportionment calculation during October.</p>
<p><b>GST group</b></p>	<p>As this was a high-level review, from the transactions we reviewed, we observed that Council is correctly returning GST on group income and correctly claiming GST on group expenditure (excluding intragroup transactions).</p>	<p>Council should ensure that it maintains its current practice.</p>	<p>Agree</p>

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<b>Residential rental income</b>	<p>Jigsaw provides property services to Council. Jigsaw (via Council's finance system) correctly accounts for GST output tax on residential rental income received from mixed-use residential property (i.e. property that is ultimately held for Council's taxable activity, but in the interim, is used for making exempt supplies of residential rental income).</p> <p>When these properties are sold, Council will need to ensure it reviews the GST position of these properties to ensure that it meets the requirements of the SOLGM agreement.</p>	<p>Council should ensure it continues to track the GST adjustments returned, on a per property basis, so that it is able to claim the full value of GST returned when a property's use changes from mixed-use to <i>fully taxable use</i> (e.g. Council demolishes building to commence flood protection).</p> <p>As a separate piece of work PwC has prepared a property guide for the Hutt River flood protection work. This guide provides more information on the SOLGM agreement.</p>	Agree
<b>Residential property</b>	Council correctly 'blocks' GST from being claimed on expenditure relating to its residential property (i.e. making exempt supplies).	Council should ensure that it maintains its current practice.	Agree
<b>Property sales</b>	Our review of sample Sale and Purchase agreements indicated that Council has correctly accounted for GST on its property disposals.	Council should ensure that it maintains its current practice.	Agree
<b>Property purchases</b>	<p>Council is about to begin its flood protection project, requiring Council to purchase a large number of properties in along the Hutt Riverbank. Council has taken proactive steps to obtain a GST guide from PwC to assist in determining the correct GST treatment of the property transactions.</p> <p>Our review of the first sale and purchase agreement in relation to the flood protection project indicated that Council has correctly accounted for GST on this property purchase.</p>	Council should ensure that it maintains its current practice and seek assistance on non-standard transactions, as required.	Agree

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<b>Cutting rights</b>	Council received a 10% 'deposit' for the sale of cutting rights. As 'cutting rights' in this instance relate to an interest in land, Council has correctly applied the zero-rating rules to the deposit received.	No action required.	Agree
<b>Train sales (zero-rated)</b>	<p>Council recently sold a tranche of trains to a company in Africa. Council did not return GST on the income as it was treated as a zero-rated supply of exported goods (ordinarily requires export within 28 days).</p> <p>On the basis that Council exported the trains in accordance with the allowable Customs timeframes, Council has correctly accounted for GST on this transaction.</p>	Council should ensure that it declares these sales as zero-rated supplies in Box 6 of the GST return in the month in which these transactions occur.	Agree but the sale of the second tranche of trains looks unlikely now to the company in Africa.
<b>Train purchases</b>	<p>Council recently purchased 'new' trains from a supplier in Korea. Given the significant expenditure related to this purchase, we reviewed the transaction from a GST perspective. The invoice received is from a New Zealand entity and has New Zealand GST charged on it.</p> <p>We consider that Council has correctly claimed GST input tax on the purchase of the trains.</p>	Council should ensure it maintains its current practice.	Agree
<b>Staff reimbursements</b>	Council correctly claims GST on staff reimbursements of business expenditure reimbursed through payroll.	Council should ensure it maintains its current practice.	Agree

Area of focus	Our observation	Our recommendation	Action taken by Council
<b>PAYE/WHT</b>			
<b>Overnight allowance to Biosecurity and Parks staff</b>	<p>Council treats the 'overnight allowance' paid to Biosecurity staff as a non-taxable allowance. It is unclear whether Council has sufficient evidence to support the payment on this allowance on a tax-free basis.</p> <p>Please refer to 'Section 3.2' for further comments.</p>	<p>Please refer to 'Section 3.2' for further comments.</p>	<p>HR will investigate the level of evidence regarding these allowances</p>
<b>Porirua property</b>	<p>We understand that Council provides free full time accommodation to one employee who would ordinarily be required to travel a considerable distance to undertake their employment duties in areas near Porirua. Council does not return PAYE on the market value of the accommodation provided.</p> <p>Council has a PAYE exposure as it has not returned PAYE on the provision of this accommodation to this employee.</p>	<p>We recommend that Council reviews the basis upon which the accommodation is provided, and formalise the arrangement. Following this, we recommend that Council determine whether PAYE should be returned.</p> <p>We are happy to assist in this determination if appropriate.</p>	<p>This accommodation is not permanent and is for multiple staff depending on who is working in the area at the time.</p> <p>HR will investigate this further and discuss with PWC whether or not PAYE is to be returned.</p>
<b>Payments made under section 123 of the ERA</b>	<p>Council has advised us that there have been no tax-free payments made under section 123 of the ERA since our previous tax compliance review was undertaken in February 2013.</p> <p>We recognise that Council has recently undergone a significant restructure and in such instances we often find tax-free payments under section 123 of the ERA.</p>	<p>We recommend that Council confirm that no such payments have been made in response to Council's significant restructuring.</p> <p>We also recommend that Council remain vigilant to ensure that any future tax-free payments made under section 123 of the ERA in the future are carefully considered to determine whether it is genuine compensation for 'hurt and humiliation suffered' by the employee.</p> <p>Please refer to 'Appendix Three' for comment on Inland Revenue's four criteria in respect of payments made under section 123 of the ERA.</p>	<p>It is assumed that no tax-free payment was made as it is not a practice at Council.</p>

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<b>Employee/ contractor distinction</b>	<p>Business Unit managers have discretion to engage individuals, as required. Council utilises the PwC employee-contractor distinction test checklist to ensure appropriate consideration is given to their determination.</p> <p>Council was unable to provide a list of contractors engaged but we note that Human Resources and Procurement teams are in the process of developing a database of contractors<sup>2</sup>.</p> <p>Based on discussions, whilst there may be a risk that 'smaller' contractors may incorrectly be classified, we consider that the overall risk to be relatively low in respect to the large number of contractors engaged.</p>	Council should ensure that as part of the contract engagement project, support should be held for each contractor engaged to support Council's determination.	Employee-contractor checklist will be made available as part of guidance documents for managers on contractors within the next 3 months
<b>Relocation payments</b>	<p>On occasions, Council will contribute towards the cost of an employee relocation.</p> <p>Based on our discussions, we understand that these payments are processed through Accounts Payable as a non-taxable payment, and Council holds appropriate documentation to support the position taken.</p>	Council should ensure that appropriate consideration is given to the Inland Revenue's Relocation Determination ( <i>Determination 09/04: Eligible Relocation Expenditure</i> ) regarding eligible relocation expenses and relevant expenditure timeframes.	Agree
<b>Ranger accommodation allowance</b>	<p>Certain rangers are afforded discounted accommodation by Council. Council pays a 'grossed-up' allowance, equivalent to the 25% discount 'grossed-up' for PAYE, and takes a 25% deduction after tax.</p> <p>Council is correctly treating the accommodation allowance paid to rangers as a taxable allowance.</p>	Council should ensure that it maintains its current practice.	Agree

<sup>2</sup> Largely driven due to recent health and safety legislation changes.

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<b>Superannuation allowance</b>	Council pays a taxable super allowance (up to 3%) for those employees that forgo additional employer superannuation contributions.	Council should ensure that it maintains its current practice.	Agree
<b>Payments of extra pay</b>	Council is correctly treating 'bonus payments', 'cashed-up' annual leave and annual leave on final pay as extra pay, and taxing them at the respective employees' marginal tax rate.	Council should ensure that it maintains its current practice.	Agree
<b>WHT on Commissioners</b>	Council is correctly deducting WHT at the rate of 33% on payments made for services provided by Commissioners, and correctly, does not apply WHT on mileage reimbursements.	Council should ensure that it maintains its current practice.	Agree
<b>NRCT</b>	Council engages with non-resident suppliers to provide services in New Zealand as required (e.g. TechnologyOne consultants).  Council personnel have a good understanding of the NRCT rules, and have resources available <sup>3</sup> assist in determining whether NRCT applies.	Council should continue to remain vigilant when engaging non-resident contractors to ensure NRCT is appropriately considered.	Agree

<sup>3</sup> E.g. NRCT flow chart for payments made to non-resident contractors.

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<b>FBT</b>			
<b>Trauma insurance</b>	<p>Council incorrectly classified trauma insurance as an unclassified fringe benefit for FBT purposes, rather than a 'classified' fringe benefit; this has likely lead to Council over-returning FBT on unclassified benefits for the quarters ended 31 December 2014 to 30 September 2015.</p> <p>Please refer to 'Section 3.3' for further comments.</p>	Please refer to 'Section 3.3' for further comments.	Council will recalculate the FBT returned from 31 Dec 14 – 30 Sept 2015 period during October, to identify any FBT over returned.
<b>Income protection insurance</b>	<p>Council is currently returning FBT on the provision of income protection insurance to employees. As this type of insurance is excluded from being a fringe benefit<sup>4</sup>, Council has over-returned FBT on the provision of this 'benefit' to its employees.</p> <p>Please refer to 'Section 3.3' for further comments.</p>	Please refer to 'Section 3.3' for further comments.	Council will recalculate the FBT during October.

<sup>4</sup> Provided the receipt of the insurance proceeds is considered taxable income of the employee.

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<b>Procedures</b>	<p>Council has a formal procedural document for the preparation of Council's FBT return; however, it currently does not accurately reflect the current process as it has evolved.</p> <p>It is pleasing to see that Council has acted upon our recommendation outlined in our previous tax compliance report to implement a procedural document for the preparation and filing of Council's FBT returns.</p> <p>It is important to ensure that this document is reviewed and kept up to date as processes and/or procedures continue to develop over time.</p>	<p>We recommend that Council update its FBT procedural document to ensure that the document reflects the current procedure for preparing and filing its FBT returns.</p>	<p>Council will develop formal FBT procedural documentation during October.</p>
<b>Private use letter</b>	<p>Council allows certain employees the use of a 'work-related motor vehicle'<sup>5</sup>. We understand Council does not issue annual 'refresher' letters to all employees reaffirming that private use of those vehicles is prohibited.</p> <p>Inland Revenue would expect such letters to be issued to all employees that drive work-related motor vehicles.</p>	<p>We recommend that Council ensure all employees who are assigned a 'work-related motor vehicle' are issued with an annual 'refresher' letter reaffirming their private use restrictions.</p>	<p>Agreed, an annual reminder letter will be issued to staff with work related vehicles.</p>

<sup>5</sup> With such motor vehicle fitting the 'work-related motor vehicle' criteria, and quarterly spot checks being undertaken.

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<b>Tracking unclassified benefits</b>	<p>Council uses 'FBT partner' for the preparation of its FBT return, which includes the functionality to track the value of unclassified benefits provided against the <i>de minimis</i><sup>6</sup> threshold.</p> <p>We identified one instance<sup>7</sup> where Council has likely over-returned FBT on the provision of unclassified benefits to employees; this being Council FBT return for the quarter ended 31 December 2015.</p> <p>Our manual track of the <i>de minimis</i> threshold outlined that Council did not appear to have breached this threshold as the value of all unclassified benefits provided during that current and previous three quarters did not exceed \$22,500. In this regard, Council has over-returned FBT on unclassified benefits provided to employees during the quarter ended 31 December 2015.</p>	<p>We recommend that Council:</p> <ul style="list-style-type: none"> <li>• Consider whether it is appropriate to include a procedure to manually track the <i>de minimis</i> threshold, so as to confirm 'FBT partner's' conclusion.</li> <li>• Should cease to return FBT on <i>all</i> unclassified benefits provided in instances where the value of unclassified benefits does not breach the <i>de minimis</i> threshold; and</li> <li>• Quantify the FBT over returned on unclassified benefit for those quarters, and consider submitting a voluntary disclosure to Inland Revenue to correct prior FBT periods.</li> </ul>	<p>Council will investigate during October if it is practical to manual track the <i>de minimis</i> threshold going forward and identify any over returned FBT.</p>
<b>Car parks</b>	<p>Council affords use of car parks to certain employees. As these are located on Council premises, they meet the 'on-premises' exemption, and are not subject to FBT.</p>	<p>Council should ensure that it maintains its current practice.</p>	<p>Agree</p>

<sup>6</sup> Being \$300 per employee per quarter, or \$22,500 for all employees for the current and previous three quarters.

<sup>7</sup> Other than those referred to in 'Section 3.3 FBT on trauma insurance and income protection insurance' above.

Area of focus	Our observation	Our recommendation	Action taken by Council
<b>Credit cards</b>	<p>Council maintains a policy in relation to the use of Council-issued credit cards which stipulates that no private expenditure is permitted.</p> <p>No FBT implications arise from this arrangement.</p>	<p>Council should ensure that it maintains its current practice.</p>	Agree
<b>Monitoring private use of motor vehicles</b>	<p>Council is undertaking a best practice approach in regards to monitoring the private use of motor vehicles; which involves performing a quarterly and random odometer spot checks and includes this within the FBT return work papers. This information is used to raise queries if there is any private use of the motor vehicle.</p> <p>We note that Council's vehicles are also 'fitted-out' with a sophisticated vehicle monitoring system. Council may wish to explore the use of this functionality for FBT purposes, in the future.</p>	<p>Council should ensure that it maintains its current practice.</p>	Agree