Inland Revenue
Te Tari Taake

TECHNICAL DECISION SUMMARY > ADJUDICATION

WHAKARĀPOPOTO WHAKATAU HANGARAU > WHAKAWĀ

Whether subdivision was a profit-making undertaking or scheme and a taxable activity

Decision date | Rā o te Whakatau: 29 August 2022

Issue date | Rā Tuku: 17 November 2022

TDS 22/21

Subjects | Kaupapa

Income tax: subdivision; undertaking or scheme; acquired for purpose of disposal; residential land exclusion.

GST: taxable activity

Abbreviations | Whakapotonga

The abbreviations used in this document include:

CCS	Customer & Compliance Services, Inland Revenue
Commissioner or CIR	Commissioner of Inland Revenue
GST	Goods and services tax
GST Act	Goods and Services Tax Act 1985
ITA	Income Tax Act 2007
TAA	Tax Administration Act 1994
TRA	Taxation Review Authority
TCO	Tax Counsel Office, Inland Revenue

Taxation laws | Ture tāke

All legislative references are to Income Tax Act 2007 (**ITA**) unless specified otherwise.

Facts | Meka

1. This dispute involved a two-lot subdivision carried out at a property by the Taxpayer.
2. The Taxpayer is an individual. While outside of New Zealand, the Taxpayer purchased a property in New Zealand (**the Property**). The Taxpayer funded the purchase out of their own money.

3. The Taxpayer stated that they acquired the Property for the purpose of renovating and extending it to live in with their extended family. The Taxpayer's extended family moved into the existing dwelling at the Property upon settlement. The Taxpayer joined the family at the Property upon their return to New Zealand a few months later.

4. An architect was engaged to consider the extension of the existing dwelling. However, due to some serious issues with the existing dwelling, such as drainage and asbestos, it was suggested that the Taxpayer should subdivide the Property into two lots and construct a new dwelling on each lot.

5. Consequently, plans for the two new houses were drawn up and finance was obtained from the bank to fund the project. A resource consent application was submitted to the local council, which was subsequently approved and issued, to demolish the existing dwelling, to construct two new dwellings and to subdivide the land into two lots. Building consents were also issued in respect of both lots.

6. While the works were undertaken, the Taxpayer's extended family moved into a rental property. The Taxpayer was outside of New Zealand for a part of that time but lived in the rental property with the extended family while they were in New Zealand.

7. The Taxpayer asserted that they occupied the newly constructed family home at the Property for 8 months prior to the subdivision of the land.

8. The subdivision of the Property was completed after the code compliance certificate was issued for both dwellings. Two new titles were issued – one for the land on which the family home was constructed (**House A**) and the other for the land on which the second dwelling was constructed (**House B**).

9. The Taxpayer sold House B soon after the subdivision was completed and received proceeds from the sale.

10. The Taxpayer lived at House A for a further 5 years after selling House B.

Issues | Take

11. The main issues considered in this dispute were:

    - whether the Taxpayer entered into an undertaking or scheme at the Property for the dominant purpose of making a profit for s CB 3 to apply to the sale of House B;
    - whether the Taxpayer acquired the Property for a purpose or with an intention of disposing of it for s CB 6 to apply to the sale of House B;

- whether the residential land exclusion in s CB 17(2) prevented s CB 12 from applying to the sale of House B; and
- whether the supply of House B was subject to GST.

12. There was also a preliminary issue on the onus and standard of proof.

Decisions | Whakatau

13. The Tax Counsel Office (**TCO**) decided that:

- The Taxpayer did not enter into the undertaking or scheme at the Property for the dominant purpose of making a profit. Therefore, the sale proceeds are not income for the Taxpayer under s CB 3.
- The Taxpayer acquired the Property for the sole purpose and with the sole intention of creating a home for themself and their extended family. Therefore, the proceeds of sale of House B are not income for the Taxpayer under s CB 6.
- The Taxpayer occupied the Property mainly as residential land prior to the subdivision. Therefore, the exclusion in s CB 17(2) applies to the Taxpayer and the sale proceeds are not income for the Taxpayer under s CB 12.
- The Taxpayer did not carry on a "taxable activity", as defined in s 6 of the Goods and Services Tax Act 1985 (**GSTA**), in carrying out the development, construction and subdivision project at the Property. Therefore s 8(1) of the GSTA does not require the Taxpayer to charge GST on the supply of House B.

Reasons for decisions | Pūnga o ngā whakatau

Preliminary issue | Take tōmua: Onus and standard of proof

14. The onus of proof in civil proceedings[1] is on the taxpayer, except for shortfall penalties for evasion or similar act, or obstruction.[2] The taxpayer must prove that an assessment is wrong, why it is wrong, and by how much it is wrong.[3]

[1] Challenge proceedings (ie, the proceedings that would follow if this dispute proceeds to the Taxation Review Authority (**TRA**) or a court) are civil proceedings.

[2] Section 149A(2) of the Tax Administration Act 1994 (**TAA**).

[3] *Buckley & Young Ltd v CIR* (1978) 3 NZTC 61,271 (CA); *Beckham v CIR* (2008) 23 NZTC 22,066 (CA).

15. The standard of proof in civil proceedings is the balance of probabilities.[4] This standard is met if it is proved that a matter is "more likely than not".[5]

16. An assessment made by the Commissioner cannot be arbitrary. He must make the best judgment he can on the information in his possession as to the amount of taxable income and the amount of tax payable. In some cases, a taxpayer may be able to discharge the onus of proof by showing that the assessment is arbitrary or demonstrably unfair.[6]

Issue 1 | Take tuatahi: Section CB 3 – undertaking or scheme

17. Section CB 3 includes in a taxpayer's assessable income amounts derived from the carrying on or carrying out of an undertaking or scheme entered into for the purpose of making a profit.

18. The issue is whether s CB 3 applies to the sale of House B.

19. Customer & Compliance Services (**CCS**) argued that s CB 3 applies to the sale of House B because the Taxpayer carried on or carried out an undertaking or scheme (involving the demolition of the existing dwelling, subdivision of the land into two lots, building a new dwelling on the land that became House B, and the sale of House B) entered into or devised for the dominant purpose of making a profit.

20. The Taxpayer argued that they carried on or carried out the development, subdivision and building work for the dominant purpose of providing a home for themself and their extended family.

21. The key principles derived from case law on s CB 3 are:

    - An undertaking or scheme is a programme of action, or series of steps, directed to an end result. The plan or purpose must be coherent and have some unity of conception, but it does not need to be precise. There must be a nexus between the undertaking or scheme and any gain derived.[7]

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[4] Section 149A(1) of the TAA; *Yew v CIR* (1984) 6 NZTC 61,710 (CA); *Birkdale Service Station Ltd v CIR* (1999) 19 NZTC 15,493 (HC); *Case X16* (2005) 22 NZTC 12,216; *Case Y3* (2007) 23 NZTC 13,028.

[5] *Miller v Minister of Pensions* [1947] 2 All ER 372, 374.

[6] *Lowe v CIR* (1981) 5 NZTC 61,006 (CA); *CIR v Canterbury Frozen Meat Co Ltd* (1994) 16 NZTC 11,150 (CA); *CIR v New Zealand Wool Board* (1999) 19 NZTC 15,476 (CA).

[7] *Investment & Merchant Finance v FCT* (1970) CLR 177 (HCA) at 189; *Vuleta v CIR* [1962] NZLR 325 (NZSC) at 329; *Duff v CIR* (1982) 5 NZTC 61,131 (CA) at 61,141; *Case S86* (1996) 17 NZTC 7,538 at 7,548.

- Not all schemes or undertakings come within the scope of s CB 3. In the case of an undertaking or scheme involving a single transaction of acquisition and re-sale, at least, the provision is intended to apply if the undertaking or scheme exhibits the characteristics of a business deal but falls short of a business.[8] The provision does not apply to tax capital gains where the taxpayer has done no more than realise a capital asset (even if this is done in a way that secures the best price).[9]
- For s CB 3 to apply, profit-making must be the dominant purpose of entering into or devising the undertaking or scheme. A taxpayer may have more than one purpose for entering into or devising an undertaking or scheme; but for s CB 3 to apply, the purpose of making a profit must be "*the* purpose" for entering into or devising the undertaking or scheme.[10]
- The focus is on the taxpayer's subjective purpose in entering into or devising the undertaking or scheme; but this is assessed objectively.[11] This is tested when the undertaking or scheme commences[12], this being when it is clear that the taxpayer has taken an overt step in putting into action a coherent plan formulated earlier.[13] This is to be determined on the facts of each case.[14]
- In respect of an undivided block of land, it is the taxpayer's dominant purpose in relation to the block as a whole that is relevant.[15]

22. Based on the facts and the evidence presented in this dispute, TCO decided that the Taxpayer did not enter into the undertaking or scheme at the Property for the dominant purpose of making a profit, and therefore, the proceeds from the sale of House B were not income for the Taxpayer under s CB 3 for these reasons:

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[8] *McClelland v FCT* 70 ATC 4115 (PC) at 26-27; *Duff v CIR* (1982) 5 NZTC 61,131 (CA) at 61,141. The existence of a "business" is determined by applying the criteria in *Grieve v CIR* (1984) 6 NZTC 61,682 (CA).

[9] *Beetham v CIR* 72 ATC 6042 (NZSC) at 582-583; *Eunson v CIR* [1963] NZLR 278 (NZSC) at 281. See also *FCT v Whitfords Beach Pty Ltd* [1982] HCA 8, 82 ATC 4031 (HCA) at [9].

[10] *CIR v National Distributors Ltd* (1989) 11 NZTC 6,346 (CA) at 6,350. This contrasts with s CB 6, considered briefly later, where profit need only be **a** purpose (or intention) for acquiring the land.

[11] *CIR v National Distributors Ltd* at 6,351. See also *CIR v Walker* [1963] NZLR 339; (1962) 13 ATD 108 (HC)

[12] *Gilmour v CIR* [1968] NZLR 136 (NZSC); *Case S86* at 7,548

[13] *Cross & Anor v CIR* (1987) 9 NZTC 6,101 (CA) at 6,106 and 6,111-6,112.

[14] *Smith v CIR* (1987) 9 NZTC 6,118 (CA) at 6,125.

[15] *CIR v Walker* at 121, 123-124 and 128.

- The Taxpayer entered into an undertaking or scheme in relation to the Property for the demolition of the existing dwelling and associated development work, the construction of two new dwellings, and subdivision of the Property into two lots. The undertaking or scheme commenced when the Taxpayer applied for a resource consent for the development, construction and division work.
- Where an undertaking or scheme involves a single transaction of acquisition and re-sale, s CB 3 does require that the undertaking or scheme exhibits the characteristics of a "business deal" but does not require that a "business" is carried on in terms of the criteria in *Grieve*. It is considered the Taxpayer's undertaking or scheme arguably did not involve "a single transaction of acquisition and re-sale". However, even if it did, the Taxpayer's undertaking or scheme did not exhibit the characteristics of a "business deal".
- Where land is undivided (as the Property was when the Taxpayer entered into the undertaking or scheme), the relevant case law establishes that it is not possible for a taxpayer to have separate "dominant" purposes for separate parts of the undivided land. The Taxpayer's purpose for the sale of House B must be viewed in light of their purpose for the whole property on commencement of the undertaking or scheme. The Taxpayer's dominant purpose for the Property as a whole on entering into the undertaking or scheme was to create a new home for themself and their extended family.

Issue 2 | Take tuarua: Section CB 6 – acquired for purpose of disposal

23. Under s CB 6, an amount that a person derives from disposing of land is income of the person if they acquired the land:
    - for one or more purposes that included the purpose of disposing of it, and/or
    - with one or more intentions that included the intention of disposing of it.
24. TCO concluded that the findings that the Taxpayer acquired the Property for the sole purpose and with the sole intention of creating a new home for themself and their extended family, prevented any finding that s CB 6 applied to treat the sale proceeds of House B as income.

Issue 3 | Take tuatoru: Residential land exclusion

25. The issue is whether the exclusion for residential land contained in s CB 17(2) prevents s CB 12 from applying to the sale of House B.

26. Section CB 12(1) taxes as income certain amounts that a person derives from the disposal of land where there is an undertaking or scheme involving the development of land or the division of land into lots. However, s CB 12(1) does not apply if an exclusion referred to in s CB 12(2) applies, one of which is the exclusion for residential land in s CB 17.

27. The exclusion in s CB 17(2) applies if the land disposed of is a lot resulting from the division into two or more lots of a larger area of land not exceeding 4,500 square metres immediately before the division and the larger area of land was occupied by the taxpayer mainly as residential land.

28. CCS argued the exclusion in s CB 17(2) did not apply on the basis that the Taxpayer did not occupy the Property mainly as residential land at the relevant times.

29. The Taxpayer argued that the exclusion contained in s CB 17(2) applied on the basis that the Taxpayer and their family did occupy the Property mainly as residential land at the relevant times.

30. The following principles can be derived from case law[16] that relates to the exclusion:

- A taxpayer whose activities in relation to that land are carried on for the purposes of residing on that land has occupied that land as residential land.[17]
- The division of the land into lots does not take place until the stage when a separate title can be issued in respect of the lots in question.[18]
- It is not necessary for the land to have had a dwellinghouse erected on it prior to subdivision or even for it to have been used "in conjunction with a residence" (as grounds) prior to subdivision. It is enough if the land was intended to be used by a taxpayer to erect their own home and/or if the taxpayer intended that the land was to form part of the grounds for the taxpayer's residence, provided there had been some work done towards achieving that objective.[19]
- Lots of land that were used or intended to be used as the grounds for a taxpayer's dwellinghouse are within the definition of "residential land" that is occupied by that taxpayer.[20]

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[16] TCO concluded that the intended scope and effect of the residential exclusion in s CB 17(2) is the same as when it was first enacted as s 88AA(3) of the LITA 1954. Case law on the predecessor sections is therefore considered authoritative in interpreting s CB 17(2).

[17] *Case C33* (1978) 3 NZTC 60,312, also cited as TRA *Case 6* (1978) 3 TRNZ 54 Lloyd Martin SM.

[18] *Wellington v C of IR* (1981) 5 TRNZ 51,154.

[19] *Case C33*.

[20] *Wellington v C of IR*.

- For a taxpayer to occupy land "mainly" (previously "primarily and principally") as residential land their foremost or chief reason for that occupation must be to use that land for their own residential purposes (or for residential purposes for themself and members of their family living with them).[21]

31. It is implicit from the case law that it does not matter if the taxpayer is temporarily absent from the land or has another home during the period of ownership of the relevant property prior to subdivision.

32. In addressing the parties' arguments, TCO made the following observations about s CB 17(2):

- Section CB 17(2) is a use-based test. The exclusion is based on the taxpayer's intended use for the land. The case law indicates that land intended for use as a residence, but which is temporarily used for other purposes, such as commercial or farm land, could potentially be "occupied mainly as residential land" provided the taxpayer is taking steps to turn it into residential land.
- Section CB 17(2) is not a time-based test as there is no reference in the text of the provision to a period of ownership. This can be contrasted with other provisions in the ITA, such as s CB 16A(1), which specifically refers to a day-count criterion.
- There is no requirement that the taxpayer must reside on the land for more than 50% of the time of ownership. The text of the provision does not refer to the taxpayer "residing" on the land (unlike the exclusion in s CB 17(1)) and does not refer to a "dwelling" (as s CB 16A does) or to a "dwellinghouse" (as s CB 16 does).
- The adjective "residential" describes the noun "land". It is the land that must be "residential". The person must "occupy" the land as residential land. The word "occupy" does not imply permanence (but it does require something more than visiting a property that is occupied by someone else).
- Section CB 17(2) does not require that the land was occupied as residential land "immediately before" the subdivision, only that the larger area of land was 4,500 square metres or less "immediately before" the land was divided.

[21] *Case C9* (1977) 3 NZTC 60,058. See in contrast *Case G76* (1985) 7 NZTC 1,348; *Case K21* (1988) 10 NZTC 218; *Case M102* (1990) 12 NZTC 2,634; *Case 5/2013* (2013) 26 NZTC 2,004, where the dwellinghouses in question were not "primarily and principally" occupied as personal residences of the taxpayers.

33. Based on the facts and the evidence presented in this dispute, TCO decided that the residential land exclusion in s CB 17(2) applied and, therefore, the sale proceeds were not income for the Taxpayer under s CB 12 for these reasons:

- The Taxpayer first occupied the Property mainly as residential land for themself and their extended family from the date of settlement. The Taxpayer continued to occupy the Property mainly as residential land until the subdivision was completed (the date new titles were issued).
- The relevant case law indicates that land is "occupied mainly as residential land" if the taxpayer mainly intends to use the land as their home (or as one of their homes), provided they have actually done so prior to the subdivision or have taken steps to do so prior to the subdivision. "Mainly" in this context means primarily and principally (or chiefly or pre-eminently). It is directed at the taxpayer's *main intended purpose* for the land, not their main use.
- Considering the above in light of the Taxpayer's facts, the Taxpayer bought the Property in their own name and with their own money. The Taxpayer's extended family moved into the Property upon settlement, and it was intended that the Taxpayer would live there with them. The Taxpayer lived at the Property while they dealt with the architect. Even though the Taxpayer was outside of New Zealand when the project commenced, the Taxpayer returned before the project was completed to live in the rental accommodation with their extended family and, presumably, to prepare to move into House A.
- It did not matter that there was no habitable dwelling at the Property for a period of time, as the Taxpayer's main intended purpose for the Property had not changed during that period, and steps were taken to construct a new home at the Property. Nor did it matter that the Taxpayer spent time overseas. Their extended family (and presumably some of their belongings) remained at the Property as long as there was a dwelling there. The Taxpayer was unable to live at the Property for the larger part of their absence from New Zealand anyway, and so would have had to live in alternative accommodation if they had stayed in New Zealand.
- The Taxpayer's absence from New Zealand at the actual date of subdivision was not material as, again, their extended family and presumably their belongings remained at House A while the Taxpayer was temporarily overseas. The fact that the Taxpayer's main intended purpose for the Property had not changed by the subdivision date was supported by their subsequent conduct, in that they lived at House A for a further 5 years before selling it.

Issue 4 | Take tuawhā: GST

34. The issue is whether the supply of House B was subject to GST.

35. CCS argued the Taxpayer carried on a taxable activity in carrying out the development, building work and subdivision of the Property. Therefore, the Taxpayer should have been registered for GST and returned GST on the supply of House B.

36. The Taxpayer argued that the development and building work and subdivision of the Property was not a taxable activity and, therefore, they were not required to register for GST or return GST on the supply of House B.

37. Section 8(1) of the GSTA imposes GST on taxable supplies of goods and services made by a registered person in the course or furtherance of a taxable activity carried on by the registered person. Establishing that there is a taxable activity is crucial to whether a person should be registered for GST and subject to the GSTA.

38. There are four requirements that must be satisfied to show there is a taxable activity under s 6(1)(a) of the GSTA:

- There must be an activity.[22]
- The activity must be carried on continuously or regularly by a person.
- The activity must involve, or be intended to involve, the supply of goods and services to another person.[23]
- The supply or intended supply must be made for a consideration.[24]

39. CCS and the Taxpayer agreed that the development, construction, and subdivision project amounted to "an activity" carried on by the Taxpayer, and that the activity did involve the supply of goods and services (House B) to another person for consideration. However, the Taxpayer argued that the activity was not carried on

[22] *Newman v CIR* (1994) 16 NZTC 11,229 (HC) at 11,233, *CIR v Bayly* (1998) 18 NZTC 14,073 (CA) at 14,078, and *Case 14/2016* [2016] NZTRA 14, (2016) 27 NZTC 3-036 at [63].

[23] Definition of "supply" in s 5(1); *Databank Systems Ltd v CIR* (1987) 9 NZTC 6,213 (HC) at 6,223; *Pacific Trawling Ltd v Chief Executive of the Ministry of Fisheries* (2005) 22 NZTC 19,204 (HC); *Case S77* (1996) 17 NZTC 7,483; *Case L67* (1989) 11 NZTC 1,391; *Case N27* at 3,239-3,238; *Case 14/2016* at [69].

[24] Definition of "consideration" in s 2(1); *CIR v New Zealand Refining Co Ltd* (1997) 18 NZTC 13,187 (CA) at 13,193; *Director-General of Social Welfare v De Morgan* (1996) 17 NZTC 12,636 (HC); *Suzuki New Zealand Ltd v CIR* (2001) 20 NZTC 17,096 (CA) at [61]; *Taupo Ika Nui Body Corporate v CIR* (1997) 18 NZTC 13,147 (HC) at 13,150; *Chatham Islands Enterprise Trust v CIR* (1999) 19 NZTC 15,075 (CA) at [18] and [30]. *Trustee, Executors and Agency Company New Zealand Limited v CIR* (1997) 18 NZTC 13,076 (HC) at 13,086; *Turakina Maori Girls College Board of Trustees v CIR* (1993) 15 NZTC 10,032 (CA).

"continuously or regularly", and therefore that there was no "taxable activity" as defined.

"Continuously or regularly"

40. To "carry on" an activity means that a person must be pursuing a course of conduct habitually or be engaging in a series of acts. The focus is on the activity as a whole and not on the individual steps involved in the activity. [25]

41. An activity is carried on continuously if:

- it is carried on over a period, in a sequence uninterrupted in time, or it is connected;[26]
- it has not ceased in a permanent sense, and has not been interrupted in a significant way;[27]
- it is not intermittent or occasional.[28]

42. An activity is carried on regularly if:[29]

- it is carried on in accordance with a definite course, or a uniform principle of action or conduct;
- there is a proper correspondence between the elements of the activity.

43. This means that an activity is carried on regularly if the elements of it recur at fairly fixed times, or at generally uniform intervals, so as to be of a habitual nature and character.[30]

44. Whether an activity is being carried on continuously or regularly is a matter of fact and degree.[31] An activity that is of a "one-off" nature, never to be repeated, is unlikely to qualify as an activity carried on either continuously or regularly.[32]

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[25] *CIR v Newman* (1995) 17 NZTC 12,097 (CA) at 12,100; *Smith v Anderson* (1880) 15 Ch D 277 at 278; *Premier Automatic Ticket Issues Ltd v FCT* (1933) 50 CLR 268 (HCA) at 298; *Case 14/2016* at [67].

[26] *Wakelin v CIR* (1997) 18 NZTC 13,182 (HC) at 13,185-13,186; *Case 14/2016* at [68].

[27] *Case N27* (1991) 13 NZTC 3,229 at 3,238-3,239.

[28] *Allen Yacht Charters Ltd v CIR* (1994) 16 NZTC 11,270 (HC) at 11,274.

[29] *Wakelin* at 13,185-13,186; *Case 14/2016* at [68].

[30] *Case N27* at 3,239.

[31] *Newman* (CA) at 12,101; *Case 14/2016* at [67].

[32] *Newman* (CA) at 12,104; *Tout & Anor v Cook* (1991) 13 NZTC 8,053 (HC); *Allen Yacht Charters* at 11,274; *Case 14/2016* at [68].

45. A number of cases have considered whether there was a continuous or regular activity in the context of subdivision activities. The key principles drawn from these cases are:

- A subdivision that is part of a continuing pattern of subdivision work is likely to be a continuous and/or regular activity.[33]
- A one-off subdivision is not likely to be a continuous or regular activity.[34]
- An activity leading to only one supply should not normally be regarded as carried on continuously or regularly.[35]
- A one-off subdivision that involves a significant amount of physical development or other work (such as a high-end residential development) may be a continuous activity.[36] But if the subdivision involves a relatively minor amount of development work, it is unlikely to be a continuous activity.[37]
- The lack of any commercial flavour is not sufficient to prevent an activity from being carried on "continuously" if it is of a large enough scale.[38]

46. TCO concluded that the Taxpayer's activity was not carried on continuously or regularly and, therefore, the Taxpayer was not carrying on a taxable activity for these reasons:

- The development, construction, subdivision and sale of a single residential property (i.e. a "single supply" development) is usually regarded as a "one-off" transaction and does not amount to an activity carried on "continuously", unless the project is a high-end residential development project. Provided there was nothing extraordinary about the project, it should be regarded as a "one-off" transaction and the steps taken by the Taxpayer should merely be regarded as components of the "one-off" transaction.
- The Taxpayer's project involved only one supply and was not connected to any other project. There was nothing extraordinary about the project. The section contour was flat and did not require extensive earthworks. House B was a relatively standard residential house. The amount of financial investment was on par with a standard two-lot development, construction and subdivision project carried on at that location at the time.

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[33] *Wakelin* at 13,185-13,186.

[34] *Case 14/2016*; *Tout & Anor v Cook*; *Newman* (CA).

[35] *Wakelin*; *Tout*; *Newman* (CA).

[36] See for example *Case P10* (1992) 14 NZTC 4,066; *Case P76* (1992) 14 NZTC 4,512; *Wakelin*; *Case 7/2012* [2012] NZTRA 07, (2012) 25 NZTC 1-019.

[37] *Newman* (CA).

[38] *Case 7/2012*.

47. As the Taxpayer's activity was not a "taxable activity", the supply of House B was not made by the Taxpayer "in the course or furtherance of a taxable activity" carried on by them. Therefore, s 8(1) of the GSTA did not require the Taxpayer to charge GST on the supply of House B.