

# Unique insight into complex issues

Article provided by Polson Higgs

This is the first of a new series of articles introducing our key staff and topical matters.

Farming is an increasingly complex business and farmers face their own unique raft of challenges.

As a former shareholder in a Southland dairy farm equity partnership, Frazer Weir understands those issues first hand.

Frazer works with clients predominantly in the agricultural sector throughout the South Island, advising on the key issues confronting farmers such as; profitability, understanding their business, succession planning and governance.

As part of this work Frazer advises several corporate farming ventures with multiple shareholders, or acts for individual shareholders investing in these companies.

He is a member of the New Zealand Institute of Chartered Accountants National Primary Sector committee and is also a member of the New Zealand Institute of Primary Industry Management Canterbury Westland Branch committee.

Before joining Polson Higgs in 2002, Frazer worked as a Bank of New Zealand agribusiness manager in North Canterbury.

## Contact:

Frazer Weir  
Partner  
Christchurch  
Telephone 03 366 5282  
Email: frazer.weir@ph.co.nz



# Benefits for farmers in GST changes

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Changes to land transaction GST rules provide farmers with opportunities, if structured correctly. Business advisors Polson Higgs look at the issue.

Changes to GST legislation surrounding land transactions are primarily designed to remove IRD's risk of issuing large GST refunds and being unable to collect the funds 'on the other side' in some instances, due to inappropriate dealings or insolvency.

The advantage for vendor farmers is it removes the need to find cash and account for the GST to the IRD, and for the purchaser it removes the need to pay the GST to the vendor and wait for a refund from the IRD. So it should make the sale cash flow run more smoothly.

## Key issues

Where land is sold on its own, or with other assets, the whole transaction is zero rated for GST purposes if certain criteria are met. Accordingly, the criteria are key, and people dealing with the sale and purchase contracts are only just starting to understand that.

The GST zero rating criteria require the sale to include land, the vendor (who must be GST registered – if they are not registered, there is no GST anyway) to know who will end up completing the contract, their GST status (as they must be GST registered at settlement), and their intended use of the property. This information is best included in the contract.

For farmers, the fact that the property invariably includes a dwelling has caused some confusion. To zero rate, the purchaser must intend to use the land in making taxable supplies and not intend to use the land as their principal place of residence. Because of this, some people have incorrectly assumed that where the farmer will live in the house, they cannot zero rate the sale. However, the GST rules allow the dwelling and the balance of the land to be dealt with separately, with the remaining land able to be zero rated.

However, none of the new zero rating provisions should change the price in the contract which should be stated as "plus GST if any" to protect the vendor.

People looking at buying or selling a property should get advice from their accountant and lawyer before signing the contract to fully understand the new position.

## Contact

Dunedin	03 477 9923
Tim Dunn	tim.dunn@ph.co.nz
Henry van Dyk	henry.vandyk@ph.co.nz

Christchurch	03 366 5282
Frazer Weir	frazer.weir@ph.co.nz
Geoff Bolderston	geoff.bolderston@ph.co.nz

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