



22 May 2025

[Redacted]
[Redacted]

Dear [Redacted]

Thank you for your request made under the Official Information Act 1982 (OIA), transferred from the Treasury to Inland Revenue on 2 May 2025. You requested the following documents:

1. *Inland Revenue Briefing Note BN2025/102: Tax information for Infrastructure Investment Summit.*
2. *Inland Revenue Report IR2025/080: GST treatment of management fees charged to managed funds next steps.*
3. *Inland Revenue Report IR2025/138: Information on Budget 2025 Initiatives.*
4. *Inland Revenue Briefing Note BN2025/139: Update on Budget 2025 Revenue Portfolio Initiatives.*

Please find attached a copy of the document *IR2025/080: GST treatment of management fees charged to managed funds – next steps*, with some information redacted under section 9(2)(a) of the OIA, to protect the privacy of natural persons.

I have decided to withhold the remaining three documents in **Table 1** below in full, under section 9(2)(f)(iv) of the OIA, to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

Table 1: Documents withheld in full

Item	Date	Title	Decision
1.	06/03/2025	Tax information for Infrastructure Investment Summit	Withheld in full under section 9(2)(f)(iv).
3.	28/03/2025	Information on Budget 2025 Initiatives	Withheld in full under section 9(2)(f)(iv).
4.	28/03/2025	Update on Budget 2025 Revenue Portfolio Initiatives	Withheld in full under section 9(2)(f)(iv).

As required by section 9(1) of the OIA, I have considered whether the grounds for withholding the information requested is outweighed by the public interest. In this instance, I do not consider that to be the case.

Right of review

If you disagree with my decision on your OIA request, you have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the OIA. You can contact the office of the Ombudsman by email at: info@ombudsman.parliament.nz.

Thank you again for your request.

Yours sincerely



Martin Neylan

Policy Lead – Indirect Tax



Inland Revenue
Te Tari Taake

POLICY

Tax policy report: GST treatment of management fees charged to managed funds – next steps

Date:	11 March 2025	Priority:	Medium
Security level:	In Confidence	Report number:	IR2025/080

Action sought

	Action sought	Deadline
Minister of Revenue	Note Inland Revenue will soon finalise its interpretative view Agree to recommendations Refer a copy of this report to the Minister of Finance	26 March 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Martin Neylan	Policy Lead (acting)	s 9(2)(a) [Redacted]	<input checked="" type="checkbox"/>
Kelvin Stewart	Senior Policy Advisor	s 9(2)(a) [Redacted]	<input type="checkbox"/>

GST treatment of management fees charged to managed funds – next steps

Executive summary

Purpose

1. The purpose of this report is to update you on Inland Revenue's recent public consultation on the interpretative view of the GST treatment of management fees charged to managed funds, and whether to instead progress a policy initiative by including the issue on the Government's Tax and Social Policy Work Programme.

Context

2. Following on from the earlier report [IR2024/279 refers], in August 2024 Inland Revenue released, for public consultation, its interpretative view of the GST treatment of management fees charged to managed funds. The consultation period was extended to 11 November 2024, with 18 submissions received from representative bodies, the managed funds industry and other stakeholders.
3. Inland Revenue's view of the current law, as explained in draft interpretation statement *PUB00486: GST treatment of fees paid in relation to managed funds*, is that fund manager fees are not subject to GST and the investment manager fees may be subject to GST dependent on the level of oversight of the investment manager. The managed funds industry is currently applying a range of GST treatments, based on their interpretation of the current law. This flexible approach was always intended to be an interim measure (given the interpretative uncertainty) and would be superseded.
4. While many submitters broadly agreed with Inland Revenue's technical analysis of the current law, they disagreed with the resulting outcome. Several submitters noted the outcome is more reasonable than the 2022 policy proposals. Several submitters suggested another policy and legislative review should be undertaken, ideally that would result in their preferred policy outcome.
5. Officials recommend not including this issue on the Government's Tax and Social Policy Work Programme. Given the diverse industry views on a suitable policy solution and a previous policy process that was halted in 2022, it is unclear how recommencing a policy initiative on this issue would lead to a favourable outcome.
6. Officials recommend that Inland Revenue should confirm its interpretative view and publish the finalised interpretation statement. This would include a prospective application date to provide time for the managed funds industry to adjust to the confirmed interpretative view. While this date has yet to be finalised, the timeframe suggested by submitters is being actively considered. Confirming Inland Revenue's view of the law will enable a more certain and consistent GST treatment is applied to these forms of financial services.
7. The managed funds industry is anticipating this confirmation to occur before 1 April 2025. Any delay in publishing the interpretation statement would result in

prolonging the interpretative uncertainty, as well as the managed funds industry having less time to prepare before the application date (yet to be determined).

8. It is anticipated that affected fund managers and investment managers will likely align their GST treatment with the interpretation statement prior to the application date. Due to behavioural changes, we do not anticipate material changes to the fiscal forecast after the application date because any behavioural response is likely to have already occurred prior to the application date.

Next steps

9. If you agree the issue should not be progressed as a tax policy initiative, Inland Revenue will seek to finalise and publish the interpretation statement before 1 April 2025, along with a prospective application date.
10. If you disagree and instead prefer the issue to be prioritised as a tax policy initiative, then Inland Revenue will cease finalising its interpretative view of the current law. We will report back to you with further information on the potential scope of a policy review.

Recommended action

We recommend that you:

11. **Note** that Inland Revenue will soon finalise its interpretative view of the GST treatment of management fees charged to managed funds and publish its interpretive statement.

Noted

12. **Agree** a policy initiative on the GST treatment of management fees charged to managed funds is **not** added to the Tax and Social Policy Work Programme.

Agreed/Not agreed

13. **Refer** a copy of this report to the Minister of Finance for their information.

Referred/Not referred

9(2)(a)

Martin Neylan
Policy Lead (acting)
Policy

Hon Simon Watts
Minister of Revenue
/ /2025

Background

14. The correct GST treatment of management services charged to managed funds has been the subject of debate over many years, and has generated considerable industry, and public, comment. In 2019, policy work was undertaken with the aim of resolving the issue by way of a legislative amendment, with policy proposals included in a tax Bill introduced in late 2022. Significant negative public reaction to these proposals led to this work being halted and the proposals withdrawn.
15. Because the issue remained unresolved (differing interpretations of the law were being applied in practice resulting in different GST outcomes), it was necessary for Inland Revenue to finalise its view of the current law to provide certainty for taxpayers and maintain the integrity of the tax system. Soon after September 2022, Inland Revenue's Tax Counsel Office initiated an interpretive review of the current law.
16. In recognition of this uncertainty, Inland Revenue had adopted a flexible approach to administering the current law, where fund managers and investment managers applied their view of the law, often a view that was most advantageous to them. This has resulted in an uneven playing field for pricing fund management services, which may be distorting market competition.

Interpretative view

17. As outlined in an earlier report [IR2024/279 refers], Inland Revenue, using analysis from the Crown Law Office, included its updated view of the GST treatment of management services in a draft interpretation statement.
18. The interpretation statement, if finalised, would effectively confirm:
 - 18.1 Fees paid to a fund manager for typical fund manager services are **not subject to GST**.
 - 18.2 Fees paid to an outsourced investment manager, when the investment manager has strong authority to make and execute investment decisions, **are not subject to GST**.
 - 18.3 Fees paid to an outsourced investment manager, when the investment manager's decisions are subject to a high level of scrutiny and oversight by the fund manager **are subject to GST**.
 - 18.4 Fees paid for outsourced administrative services, such as registry, fund accounting and unit pricing services, **are subject to GST**.

Inland Revenue consultation

19. Draft interpretation statement *PUB00486: GST treatment of fees paid in relation to managed funds* was released for public consultation on 30 August 2024, with an extended¹ 10-week public consultation period to 11 November 2024.
20. A total of 18 submissions were received,² from a range of stakeholders, including Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, the Financial Services Council, and several managed fund providers. Following the consultation period, Inland Revenue followed up with several submitters on various aspects of their submission.

¹ The normal consultation period is 6 weeks.

² This is a very high number of submissions for a TCO consultation.

Summary of submissions

21. Submitters commented on a wide range of issues. Some comments related to the interpretation of the current law, some concerned the scope of the draft interpretation statement, and some raised whether a policy or legislative solution should be progressed instead.
22. The general consensus of submitters was that there is a reasonable level of agreement with the technical conclusions. Most concerns or disagreements were to do with how the outcome could impact competition in the managed funds industry – with several submitters arguing the conclusions created a bias towards taxpayers who undertook fund management activities “in-house”, compared to those who outsourced their activities to third parties. The in-house bias of GST-exempt financial services is widely acknowledged across the financial services sector and is not something the draft interpretation statement can remedy.

Major themes

23. Submitters raised several GST technical issues. Overall, it’s evident there is a greater need for technical guidance on other aspects of the GST rules for the managed funds industry. Inland Revenue will consider further technical guidance on these issues as part of its public advice and guidance work programme. In the meantime, if taxpayers need certainty for their specific circumstances, they can obtain a binding ruling from Inland Revenue.
24. The major themes include:
 - 24.1 Several submitters were unsure of the extent to which the conclusions reached in the draft interpretation statement impacted the **management of a retirement scheme**. While the draft interpretation statement was targeted towards the management of non-retirement schemes, it did comment on retirement schemes³. The final interpretation statement will be explicit that it does not cover retirement schemes. Importantly, retirement schemes are still indirectly affected by the outcomes in the interpretation statement because they invest their assets into wholesale managed funds (who buy management services that are the subject of the interpretation statement).
 - 24.2 Some submitters sought clarity on the GST treatment of **supervisors/trustees and custodians**. The draft interpretation statement intentionally did not cover these services.
 - 24.3 Several submitters raised questions about the **scope of funds covered** by the draft interpretation statement, for example does it include commercial property, infrastructure assets or venture capital funds? The analysis was focused on funds investing in equity, debt and/or participatory securities. The interpretation statement will be further clarified so it is clear it is directed towards managed funds that invest in financial securities.

Likely stakeholder reaction to finalised interpretation statement

25. The views and reaction of the managed funds industry to a finalised interpretation statement is likely to be mixed. Industry participants providing services “in-house” are likely to be comfortable with the conclusions, while those who are outsourcing services will likely be less satisfied.

³ There is an existing GST exemption for *management of a retirement scheme*, which was not the subject of the draft interpretation statement.

26. The clarification that the interpretation statement does not include retirement schemes (including KiwiSaver schemes) will likely be welcomed, as will the clarification that the interpretation statement covers investments in financial securities and not investments in commercial property, infrastructure assets, or venture capital funds.

Application date

27. A key concern raised by nine submitters is when they would be required to follow the GST treatment outlined in a finalised interpretation statement (known as the "application date"). Several submitters advised that impacted managed fund providers would need sufficient time to implement any required changes, including amending commercial contracts, IT systems and communicating the impacts with other providers and clients, resulting in a one-off compliance cost. Inland Revenue had previously advised the finalised view would be applied on a prospective basis.
28. Several submitters suggested an application date of 12 months following Inland Revenue publishing a finalised interpretation statement:
- 28.1 The Corporate Taxpayers Group recommended at least a 12-month delay following finalisation of the interpretation statement.
- 28.2 The Financial Services Council suggested an application date of 1 April 2026.
29. The application date decision is an Inland Revenue operational decision. We are very mindful of the potential impact on the managed funds industry and agree with the industry that there will be a need to be a lead-in time before any application date. While that date has yet to be finalised, we are actively considering the timeframe suggested by submitters.
30. Inland Revenue will continue to engage with the managed funds industry, tax advisors and other external stakeholders as they align their GST treatment to the interpretative view.

Policy or legislative review

31. Eight of eighteen submissions expressed a preference for policy officials to undertake a policy or legislative review of the current law. However, there was no clear view on what a policy or legislative review should seek to achieve
- 31.1 Some submitters supported a policy review that would result in their preferred solution (either taxable or exempt) being applied across the managed funds industry.
- 31.2 Some submitters suggested continuing with the interim flexible approach.⁴
- 31.3 Some submitters did not provide a preferred policy solution; however, they ruled out various policy outcomes (such as options that would impose additional costs on KiwiSaver funds).
- 31.4 One submitter suggested that if the managed funds industry could agree to a preferred policy outcome that is more desirable than the interpretative view, the issue should be added to the Tax and Social Policy Work Programme.
- 31.5 One submitter suggested they should have GST refunded on their costs, without being required to charge GST on their services (known as zero-

⁴ GST treatment that is dependent on a taxpayer's interpretation of the current law - industry participants would naturally choose the treatment that results in the least GST cost.

rated), in part because of the importance of the managed funds industry in encouraging investment and economic growth.

32. In early 2020, policy officials undertook public consultation on potential policy options on the GST treatment of management services supplied to managed funds. In 2022, policy proposals were introduced in an omnibus tax Bill. At this point, the policy proposals were halted by the then Minister of Revenue due to the adverse public response to the proposed changes.
33. While a policy or legislative solution would provide more clarity for taxpayers, it is clear from both this recent consultation process and past engagement (including the 2022 policy proposals) the industry does not have a united view on the GST treatment, where that view would align with New Zealand's GST principles⁵ and GST treatment of other financial services.
34. No technical or minor tax policy issues were raised by submitters.
35. If a policy or legislative review was the preferred approach, the issue would first need to be added to the Government's Tax and Social Policy Work Programme.

Officials' recommendation

36. Given submitters' broad support for the analysis in the draft interpretation statement, the diverse industry views of what a policy solution should be, and the unsuccessful policy process in 2022, we do not recommend progressing this issue as a policy initiative by adding this to the Government's Tax and Social Policy Work Programme. Instead, Inland Revenue should finalise the interpretation statement for the managed funds industry to adhere to. Following this, Inland Revenue will consider undertaking further work on the technical public guidance issues outlined above.
37. In addition to prolonging this issue further, a policy review would add further uncertainty (and consequently compliance costs) to an issue that has been under active consideration since 2017.

If this issue was not progressed as a policy initiative

38. If this issue was not added to the Tax and Social Policy Work Programme, Inland Revenue will seek to confirm its view of the current law and publish a finalised interpretation statement. This interpretative view will then be applied prospectively.
39. After the interpretation statement is finalised, taxpayers can continue to raise policy and technical issues with officials, including obtaining a binding ruling for their particular commercial circumstances, including before the application date.
40. When a fund manager or investment manager does not agree with Inland Revenue's view of the current law, there is potential for disputes, including court proceedings, which could add uncertainty.

If this issue was progressed as a policy initiative

41. If this issue was added to the Tax and Social Policy Work Programme and a policy review was prioritised, Inland Revenue will not finalise or implement its interpretation of the current law and the affected managed fund providers will continue with their current inconsistent GST practices until new legislation is enacted.

⁵ Such as a broad-base low-rate tax system.

42. Officials would report back to you with further information on the potential scope of the policy review, public consultation options and timeline.

Fiscal implications

43. The draft interpretation statement established that affected fund managers will be fully GST exempt, and investment managers will be either fully GST exempt (presumed to be most affected taxpayers) or fully taxable.
44. The fiscal impact of finalising the interpretation statement is unclear given that an unknown number of taxpayers may have already aligned their GST treatment to the draft interpretation statement in advance of 1 April 2025.
45. Given the GST treatment for investment manager services is dependent on the contractual arrangements, which can be changed by the respective parties at any point in time, we do not anticipate material changes to the fiscal forecasts after the application date because any behavioural response is likely to have already occurred.

Next steps

46. If you agree not to progress this issue as a policy initiative, then Inland Revenue will seek to finalise the interpretation statement before 1 April 2025 and provide a time period for the managed funds industry to align their GST treatment with the confirmed interpretative view.
47. Any delay in publishing the interpretation statement would mean the managed funds industry has less time to prepare before the application date.
48. If you agree to include this issue on the Government's Tax and Social Policy Work Programme, then Inland Revenue will halt its work and not finalise or implement its draft view of the current law. We will report to you with advice on the potential scope of the policy review, public consultation options and timeline.