



# Game Development Sector Rebate – Design Features

SEPTEMBER 2023

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# Introduction

The Game Development Sector Rebate (GDSR) aims to support the ongoing development and growth of New Zealand’s game development sector. It seeks to catalyse growth and job creation in mid- to large-sized game development studios to strengthen the domestic sector.

In Budget 2023 the Government provided funding of \$40 million per annum for delivering and administering a rebate for the game development sector. It is a rebate on eligible expenditures of eligible firms, at a rate of 20%. A firm’s rebate payment is capped at \$3 million per annum and the minimum qualifying expenditure per annum is \$250,000.

The GDSR is effective as of 1 April 2023. This means eligible firms can count eligible expenditures from this date.

The Ministry of Business, Innovation and Employment (MBIE) has policy responsibility for the GDSR and NZ On Air is the delivery agency. MBIE will review the GDSR after two years to gauge uptake and early impact. It will undertake a further review at around the four-year mark to assess whether the scheme provides net benefits to New Zealand and whether modifications should be pursued.

## DETAILED DESIGN FEATURES

In mid-2023 MBIE ran a period of public consultation on the GDSR’s detailed design features.<sup>1</sup> These included proposals on eligibility criteria (for firms, game development activities, and expenditures), application processes and governance. The proposals were informed by other international schemes and initial ideas from the sector.

This document sets out the final design features for the GDSR. These are the settings that will govern who may access the GDSR, the portion of their expenditures that counts towards the rebate, and the general application procedures they will follow.

NZ on Air will provide further detail on the application process and precise deadlines. It will also provide assistance for firms in assessing their eligibility and will provide additional guidance on various topics of interest.

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<sup>1</sup> A summary of submissions will be made available at [Digital Technologies | Ministry of Business, Innovation & Employment \(mbie.govt.nz\)](https://www.digitaltechnologies.govt.nz/).

# Eligibility criteria

Eligibility criteria are a key tool for targeting the delivery of the GDSR to the right firms for the right activities. This will help the GDSR reach its goals and the game development sector to reach its potential.

## ELIGIBLE BUSINESSES

The purpose of the GDSR is to strengthen the game development sector and support studios developing New Zealand-owned intellectual property. A business may be eligible to apply for the GDSR if:

- the business is a New Zealand resident that has a New Zealand Company Number; or
- the business is a foreign resident that has a permanent establishment in New Zealand and a NZ Company Number

when the business makes its application and when the rebate is due to be credited to the business;

AND

- the business undertakes relevant game development activity.

For clarity, the main focus of the rebate is on game development businesses. However, businesses developing digital assets for the sector may also qualify.

Businesses that are unsure of their eligibility may submit a registration for the rebate (see next section on application process). NZ On Air will assess whether the business' activities are in the spirit of the rebate and support the ongoing development and growth of the sector.

## ELIGIBLE GAMES

For the purposes of the GDSR, a digital game comprises content, game mechanics (rules) and code, and player participation that changes the outcome. It is in an electronic form that is capable of generating a display on a portable electronic device or a computer monitor, TV screen, liquid crystal display or similar medium. Eligible formats include virtual reality (VR), augmented reality (AR), mobile, tablet, console, hybrid, installation, web browsers, PC, and multiplatform games.

The GDSR will apply to eligible expenditure on digital games that are intended for general public release for entertainment or educational purposes (including serious games).

The GDSR will not apply to expenditure on digital games that:

- are a gambling service, substantially comprised of gambling, or include game mechanics that allow real money winnings;
- contain material that would be refused classification by Te Mana Whakaatu Classification Office;
- contain pornography;
- are gamified software primarily designed for another purpose (e.g. gamified quizzes, accounting software);
- are linear content with no or limited interactivity (e.g. a 360 degree movie played on a VR headset);
- are developed for industrial, corporate training or institutional purposes; or
- are intended for commercial advertising purposes or to primarily commercialise a product, entity, or service.

## Lootboxes

The presence of lootboxes in a game does not render that game ineligible for the GDSR, unless involving game mechanics that allow real money winnings. However, GDSR applicants will be asked about the use of lootboxes (see section on application) and this issue will be monitored, including in the context of the scheme reviews scheduled at the two- and four-year marks.

## ELIGIBLE EXPENDITURE

For the purposes of the GDSR, eligible expenditure is expenditure incurred by a business in, or in relation to, developing digital games. Such development may include post-launch content creation (i.e. game updates and downloadable content) and adaptation or porting of a game for use on particular platforms.

For clarity, specific inclusions are:

- well-structured market-level remuneration packages, included in employment or contractor agreements, paid via regular payroll systems including PAYE and other taxes, to employees and independent contractors who are domiciled in New Zealand who perform work or services directly for the business that are attributable to the development of digital games and which include the following types of functions and tasks<sup>2</sup>:
  - **project management**;
  - **development**, including, for example, game design, software development and programming, engineering (including for audio, graphics, physics, software and backend and servers), prototyping, and product management;
  - **writing and story designing**, including, for example, narrative design, world building, character design, and cultural consulting (including on te ao Māori);
  - **production**, including, for example, artistic, creative and design direction, and production;
  - **art and design**, including, for example, drawing, painting, animation, performance (for music, voice and motion capture), song writing, composing, music and sound design;
  - **marketing and community development**, including, for example, go-to-market strategy, community management, influencer engagement, social media management and content creation, user acquisition management, and localising games for specific markets / languages;
  - **live operations of an online game**, including, for example, data science, business intelligence, metrics and analytics management, playtesting and build management / deployment;
  - **player research and game quality improvements**, including, for example, user experience design and testing, behaviour analysis, and quality assurance testing;
  - and other people performing similar tasks or functions to those listed above;
- expenditure on research for development of digital games<sup>3</sup>;
- expenditure on prototyping;
- expenditure on user testing, debugging and collecting user data for digital games;
- expenditure on underlying game infrastructure such as game engines;
- expenditure on game production software as a service, and game production hardware and software depreciation costs;

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<sup>2</sup> This task list recognises that individuals may play multiple roles in a business. All expenditures on eligible tasks may be counted. NZ On Air may provide further guidance to firms.

<sup>3</sup> Firms are encouraged to access the R&D Tax Incentive and other relevant grants provided via Callaghan Innovation, for research activities that fall within the scope of those schemes. Note the GDSR will not apply to expenditures already funded by other grants or subsidies.

- expenditure on online hosting and distribution of the game;
- expenditure on obtaining or maintaining a classification from Te Mana Whakaatu Classification Office;
- expenditure on obtaining trademarks for intellectual property created;
- expenditure on licensing of NZ material (e.g. music) when material is NZ held copyright or created by a NZ supplier;
- expenditure on participation in game development conferences and event attendance, including reasonable travel costs;
- expenditure on auditing costs specifically related to a GDSR application.

For clarity, specific exclusions are:

- expenditure on general business overheads such as:
  - insurance, human resources, legal services and general auditing;
  - travel, accommodation, catering and hospitality;
  - visas or work permits;
  - expenses incurred in relation to the financing of the business;
- expenditure on or in connection with employees and independent contractors whose roles are not directly related to game development, such as administrative employees, and sales professionals;
- expenditure on employees or independent contractors who are not domiciled in New Zealand at the time of the expenditure;
- expenditure on the use of land or premises;
- other depreciation expenses.

Businesses may not claim expenditures for which another business has already claimed. For clarity, when contractors are engaged, any rebate claim should only be made at the top-most level, i.e. the owner of the project, not at the contractor level. Business may only claim expenditures incurred in the year for which an application is submitted.

At times businesses may receive Government funding from other sources. The GDSR does not apply to expenditures that were already funded by other Government grants or subsidies (such as R&D grants, grants from CODE, etc).

In determining eligible expenditure, the expenditure is taken to exclude GST.

The initial \$250,000 expenditure (the minimum threshold) is considered to be claimable under the GDSR.

# Application process

The application process aims to minimise compliance costs and operate on a high trust model with the sector.

## REGISTRATION

The eligibility period for the GDSR is 1 April to 31 March. Prior to an application, businesses must register with NZ On Air. Registration for the first year of the GDSR should occur no later than 30 November 2023. NZ On Air will advise of deadlines for subsequent years. Businesses will be required to declare their type of business activity (previous, current, and planned), including information on current and planned projects, and an estimate of qualifying expenditure.

The information provided will help NZ On Air assess a business' eligibility. It will also support planning by NZ On Air. NZ On Air may establish an independent advisory function to support in its assessments, notably in the instance of "edge cases" where eligibility is less clear.

On the basis of its assessment, NZ On Air will provide the business with an acknowledgement letter indicating whether the business may submit an application in respect of its activities. This letter is non-binding and does not give any guarantee that the business will receive a rebate or the amount of that rebate.

Businesses will be asked to verify their registration each eligibility period.

## STATEMENT OF "READINESS"

The GDSR has relatively tight timeframes for applications and processing of claims, which will take place in the April-June period each year. Recognising this, applicants are required to obtain a statement of "readiness", in lieu of auditing their application.

Specifically, prior to an application, businesses must provide NZ On Air with adequate information that allows NZ On Air to verify that the business has robust processes in place to accurately establish its eligible expenditures and rebate claim in accordance with the GDSR's eligibility criteria. This statement of "readiness" will help businesses submit high-quality applications and assist in the integrity of the scheme. NZ On Air will provide further information on the involvement of auditors in this process.

## APPLICATION

If a business has successfully registered and provided its statement of "readiness", it may submit an application. Applications are to cover eligible expenditures incurred during the period 1 April – 31 March (eligibility period) and must be submitted to NZ On Air within 15 working days following the end of the eligibility period. Application forms and detailed processes for submission, with guidance material and timelines, will be provided by NZ On Air. Businesses make one application per year and there is one rebate payment per year to successful applicants.

In their application, applicants must declare any other government grants or subsidies received during the eligibility period. For transparency purposes, applicants will also be asked to inform whether the games on which they are seeking an expenditure rebate may contain lootboxes and the general features of those lootboxes.

NZ On Air will assess applications and may request further information or clarification from applicants. NZ On Air may seek its own expert advice on applications, e.g. related to accountancy, legal, or sector specificities. In particular, NZ On Air will undertake audits of applications as deemed necessary to ensure proper use of government funds.

#### **Pilot application phase for year one**

Exceptionally for year one of the scheme, eligible businesses that anticipate eligible expenditures for the year 1 April 2023 to 31 March 2024 of \$5 million or above, may submit an application for a rebate on expenditures incurred in the six months 1 April 2023 to 30 September 2023 as part of a pilot phase of the scheme. This pilot phase is designed for NZ On Air to test its rebate administrative processes with a small group of studios before the standard application process happens in 2024.

A business that considers it meets the \$5 million threshold for this pilot is encouraged to submit its registration as soon as possible for NZ On Air to process and confirm its eligibility to submit an application into the pilot phase. NZ On Air will assess the application and if the standard criteria outlined in this document related to eligible business, eligible games and eligible expenditures are met, NZ On Air will pay the claim. Payment will flow to the business in the October-December 2023 quarter.

A business submitting an application in this pilot phase is not required to provide a “statement of readiness”. However, it will be required to provide an auditor’s report as part of its submission, to provide NZ On Air assurance of the accuracy of the application. A business will also be asked to sign a declaration confirming it agrees to repay any payments made if NZ On Air determines at a later date that the business was not entitled or the entitlement changes.

A business submitting an application in this pilot phase will be able to submit a second application at the end of the full eligibility period, in line with the standard process, for its expenditure incurred in the six months 1 October 2023 to 31 March 2024. Any over- or under-payment made to the business as a result of the pilot phase application will be balanced as part of their later standard application and assessment process that happens post 31 March 2024. NZ On Air will provide further information on the timing and other details of the pilot.

#### **OTHER REQUIREMENTS AND CONDITIONS FOR APPLICANTS**

Businesses receiving payments under the GDSR must:

- acknowledge the support of the GDSR on relevant digital games where possible, e.g. in game credits or loading screens;
- contribute information as required for the compilation of a catalogue of projects supported by the rebate, curated by NZ On Air; and
- take part in any evaluation activities or other information gathering exercises led by NZ On Air or MBIE that are required to assess the GDSR’s performance against its goals.

No rebate will be provided to businesses that ceased to be eligible businesses during the eligibility period.

No rebate will be provided to businesses for which insolvency proceedings have been requested or opened in relation to their assets during the eligibility period.

At the end of each eligibility period, NZ On Air will publish the names of businesses who have received funding under the GDSR, and the aggregate amount of rebate funding disbursed. NZ On Air will also publish the amount of funding received by each business (in dollar bands), 2 years after the end of the eligibility period to which the claim related. Publication will provide transparency about how the GDSR is operating.

### **IN CASES OF OVER-SUBSCRIPTION**

There may be cases where eligible firms make applications that collectively over-subscribe the annual funding (\$40 million less scheme administration costs, plus potentially roll-over of unspent funds from earlier years) available for the rebate. In such cases, NZ On Air will allocate funding on a pro-rata basis. NZ On Air will endeavour to indicate to the sector in advance, the likelihood of over-subscription, based on information gathered in the registration process.

# Scheme governance

Governance of the GDSR aims to be light touch and use existing structures where possible, while retaining robust processes to ensure trust and credibility in the scheme and ensure proper use of public funds.

MBIE has policy responsibility for the GDSR and NZ On Air is the delivery agency. NZ On Air was chosen for its experience in administering large funds, its ability to draw on existing structures such as legal and auditing personnel, and its capacity to scale up quickly to deliver the rebate. Delivering the rebate through a creative sector entity also provides an opportunity to align economic development and cultural policy goals by supporting sustainable employment, and to support arts and media in the digital environment.

NZ On Air will receive and process applications, make rebate payments, and be the point of contact for businesses seeking rebate support. It will also assist in gathering information to inform reviews of the scheme and assessments of its effectiveness.

MBIE will work with NZ On Air to maintain governance of the GDSR. The overall aim will be to provide oversight of the efficient and effective delivery of the GDSR, and to retain focus on the overarching goals of the scheme – that is, to catalyse growth and job creation in mid- to large-sized game development studios to strengthen the domestic sector, and ultimately to contribute to creating a pipeline of developers and a sustainable ecosystem of domestic firms that develops homegrown intellectual property and puts talent development at the forefront.

As game development forms part of the Government’s Digital Technologies ITP, the Digital Technologies ITP Partnership Board will receive regular reporting from MBIE on the implementation of the scheme (e.g. six-monthly, with the provision for more frequent updates initially). The Partnership Board plays a key role in overseeing the implementation of the ITP (in which game development contributes to the export success pillar), steering the direction of future ITP priority areas, and providing strategic oversight and guidance for the ITP.

## **REVIEWS OF DECISIONS**

It is important to have clear processes for complaints and for reviews of decisions made about applications and rebate payments. These will be elaborated with NZ On Air. In the first instance, queries and complaints should be directed to NZ On Air, who will draw on sector-specific expertise where necessary. Where issues cannot be resolved, parties may seek further assistance from the Ombudsman.

## **FRAUDULENT CLAIMS**

Fraudulent claims will be pursued under the relevant legislation and may incur penalties.