The accounting income method (AIM) for paying provisional tax

As part of legislation enacted on 21 February 2017, the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Act 2017, a new method for calculating provisional tax was introduced – the accounting income method (AIM).

The new method for calculating provisional tax will be available alongside existing methods – the standard uplift, the estimate method and the GST ratio method. AIM is not replacing these methods.

A growing number of small businesses use accounting software. Businesses wanting to calculate their provisional tax obligation using AIM will use upgraded software (an AIM-capable accounting system) which will calculate provisional tax based on current year accounting income information. The summary of determinations provides detail for software developers and the minimum tax adjustments required for AIM-capable systems.

The new rules introducing the AIM method of calculating provisional tax have application to the 2018–19 and later income years.

Overview

AIM is designed to fit better within the existing and ordinary processes of a business and is more reflective of the current year to date financial performance of a business.

Under AIM, provisional tax is integrated into business processes and payment amounts are based on current year tax adjusted income. This should provide businesses using AIM with more certainty that they are paying the right amount of tax as it will be paid as income is earned.

AIM is available to taxpayers who:

- have annual gross income of under $5 million (although there is the ability for some exceptions to this rule);
- use an AIM-capable software system;
- have not been liable in one of the last four years for a shortfall penalty in relation to their use of AIM;
- have not returned tax liabilities using the AIM method with the sole purpose or effect of consistently, year-on-year, reducing their tax liabilities below reasonably accurate amounts;
- are not a member of a class of taxpayers excluded from using AIM; and
- for the current year, have not failed more than twice to give the Commissioner information required under the AIM method.

New payment dates for paying provisional tax under the AIM method have been created.

Overpaid amounts of provisional tax paid through AIM can be refunded upon request of the taxpayer before year-end.

AIM taxpayers will provide Inland Revenue with a Statement of Activity on or before each instalment date.

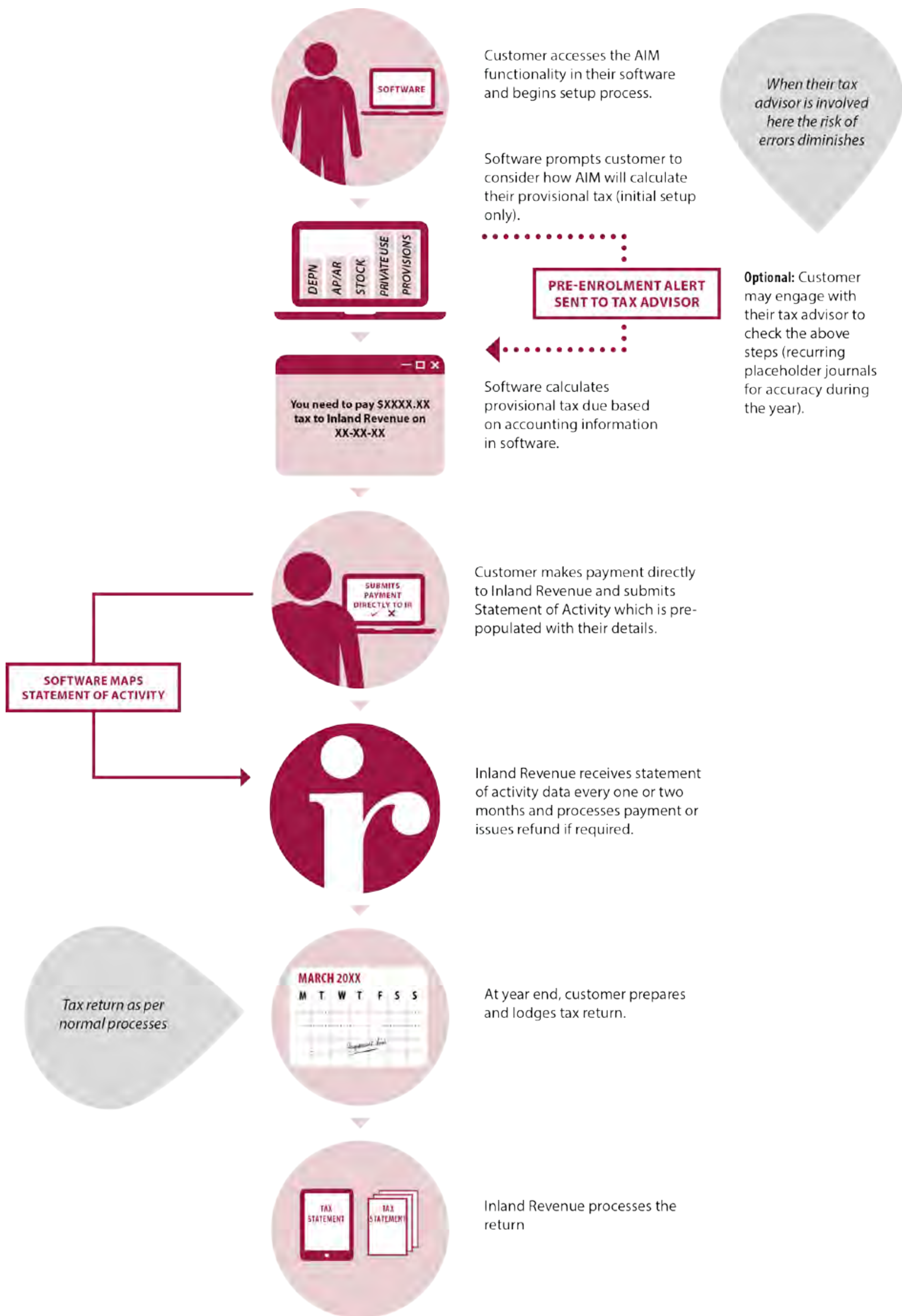
When an AIM taxpayer makes the provisional tax payments calculated by their AIM-capable software they will not have use-of-money interest exposure should the year end residual income tax result in a different tax liability.

AIM provisional tax payments cannot be made through a tax pool, however, tax pooling can be used for terminal tax and reassessment liabilities.

Overpaid provisional tax in an AIM taxpaying company may be transferred to the AIM company shareholders to meet their provisional tax liabilities on the dates that their provisional tax is due.

The Commissioner may approve taxpayers who have gross income over the $5 million threshold to use, or continue to use, AIM where the Commissioner is satisfied there is minimal risk that approval will result in less net revenue collected, this is referred to as large business AIM capable software.

The following graphic illustrates how AIM works in practice.



The following examples display how AIM would apply:

Example 1

Murphy has recently finished a painting apprenticeship and intends to set up his own house painting business. He has no previous business knowledge and his parent suggest he meet with their accountant to get some advice. The accountant suggests Murphy sets up a company, start using a basic accounting software package and elect into paying provisional tax using the AIM approach to help him budget in his first year of business. Murphy's company has a March balance date and will pay GST and provisional tax using the AIM approach on a two-monthly basis. Murphy does not make any profit in the first few months but starts to make a profit towards the end of the year. He will pay provisional tax under AIM as follows:

GST and provisional tax payment dates	28-Jun 2018	28-Aug 2018	28-Oct 2018	15-Jan 2019	28-Feb 2019	7-May 2019	Total prov tax	Terminal tax due
Income earned during current year	Nil	Nil	Nil	20,000	30,000	50,000		28,000
AIM payment amount	Nil	Nil	Nil	5,600	8,400	14,000	28,000	Nil

AIM will help Murphy budget for tax correctly in his first year of operation as he pays tax as he earns income.

Example 2

Sandy has just completed a qualification in graphic design and has decided to set up a business designing websites for customers. Being new to business Sandy approaches an accountant to understand what her tax obligations are and what dates tax payments need to be made.

Her accountant recommends that Sandy use an accounting software package and suggests some options.

Given Sandy is going to use accounting software to keep track of how her business is doing she thinks it makes sense to use an AIM-capable accounting system which also calculates her provisional tax liability.

Sandy's business has a March balance date and will pay GST and provisional tax using AIM on a two-monthly basis. For the first part of the year Sandy makes no profit but as the year progresses Sandy's business starts making a profit. Under AIM Sandy will pay provisional tax as follows:

GST and provisional tax payment dates	28-Jun 2018	28-Aug 2018	28-Oct 2018	15-Jan 2019	28-Feb 2019	7-May 2019	Total prov tax	Terminal tax due
Income earned during current year	Nil	Nil	3,000	7,500	12,000	18,000		6,108
AIM payment amount			315	788	1,855	3,150	6,108	0

Example 3

Benson Electrical Ltd is considering using AIM. They currently use accounting software, pay GST every two months, and have a March balance date. Their accountant talks to them about using AIM due to the unpredictable nature of the contracts they are being awarded. The inability to plan in the past has resulted in exposure to use-of-money interest. They generally have a slow start to the financial year but business picks up in the latter half. Their business is steadily growing and their residual income tax is $180,000 in 2017 and $220,000 in 2018.

They ask their accountant to show them what their provisional tax liability would look like under different methods for the 2019 year and how exposure to use-of-money interest would differ.

In this scenario, their possible use-of-money interest[1] costs range between nil and $6,880.

GST and provisional tax payment dates	28-Jun	28-Aug	28-Oct	15-Jan	28-Feb	7-May	Total prov tax		
Income earned during current year	108,000	Nil	178,000	250,000	178,000	143,000			
Implied tax on taxable income	30,240	Nil	49,840	70,000	49,840	40,040	239,960		
Provisional tax methods and due dates for payment	**28-Jun**	**28-Aug**	**28-Oct**	**15-Jan**	**28-Feb**	**7-May**	**Total prov tax**	**Terminal tax due**	**UOMI incurred**
AIM	**30,240**	**0**	**49,840**	**70,000**	**49,840**	**40,040**	**239,960**	**0**	**0**
Uplift 105%		77,000		77,000		77,000	231,000	8,960	737
Uplift 110%		66,000		66,000		66,000	198,000	41,960	3,449
Estimate		40,000		60,000		90,000	190,000	49,960	6,880

[1] Calculation is based on UOMI rates of 8.22% and 1.02%. It also takes into account the new provisional tax rules of no use-of-money interest for residual income tax less than $60,000 (extension of safe harbour rules) and no use of money interest on the first two provisional tax instalments if using uplift.

AIM providers approval and revocation

Software providers are required to apply under section 15U of the Tax Administration Act 1994 for approval for their AIM-capable accounting systems.

The Commissioner may approve a person as an approved AIM provider if approving the person would not negatively affect the integrity of the tax system. As part of the application process AIM providers are required to complete a statutory declaration, specifying the name of the products, declaring that the products will be regularly updated and any other information required by the Commissioner.

Providers may apply for approval for a product which will deliver AIM to businesses with gross income under $5 million a year or for use by a class of taxpayers with gross income over $5 million a year. The Commissioner will approve an application in the latter circumstance if the Commissioner decides that there is minimal risk that approval will result in less net revenue collectable from the class of taxpayers over time.

The Commissioner may revoke a person's approval as an approved AIM provider in certain circumstances:

- if anything in their statutory declaration is not true or does not continue to be true after it is made;
- if revoking the approval protects the integrity of the tax system.

Where approval is revoked it does not take effect until the next tax year to allow taxpayers using the software to complete the tax year so they are not disadvantaged.

The Commissioner must consult with the provider before revoking their approval so both parties can discuss any concerns and have the opportunity to resolve them.

Software providers may also voluntarily revoke the Commissioner's approval. A person must notify the Commissioner of their choice to revoke the Commissioner's approval under section 15W of the Tax Administration Act 1994. Where a person makes such a choice under section 15W they must notify all end-users of the person's products that will be affected by the revocation. The revocation takes effect in the following tax year.

Under section 15X of the Tax Administration Act 1994 the Commissioner may publish a notice regarding approvals or revocations.

AIM-capable accounting system

A software system must meet the definition of an AIM-capable accounting system in order to gain approval from the Commissioner.

The term "AIM-capable accounting system" is defined in section RC 7B(3) of the Income Tax Act 2007.

Section RC 7B(3) requires the software system to have a number of features which include the ability to:

- generate and keep comprehensive financial accounts, including accounting income and expenditure, ledger accounts, trial balances, bank account reconciliations, and journals, on an on-demand basis, in accordance with good accounting and tax practices;
- calculate tax liabilities using tax adjustments in accordance with a determination under section 91 AAX of the Tax Administration Act 1994;
- for tax adjustments not included in the determinations, ensure they work towards reasonably accurate assessments of tax liabilities;
- recalculate all financial accounts and liabilities retrospectively and produce reports as required by the Commissioner; and
- communicate electronically with Inland Revenue and provide the right level of customer support to its users.

Section RC 10B of the Income Tax Act 2007 provides that the amount calculated by the AIM-capable accounting system is the amount of provisional tax the taxpayer must pay the Commissioner on the instalment date.

AIM eligibility criteria

The eligibility criteria for using the AIM method are set out in section RC 5 of the Income Tax Act 2007.

To be eligible to use AIM a taxpayer must:

- elect to use it before their first payment date;
- use an AIM-capable accounting package (as defined in section RC 7B) that is up to date;
- have gross income below $5 million or have approval from the Commissioner as a previous user of AIM if their income is over $5 million; or
- be a member of the class of taxpayers with income over $5 million using a software package the Commissioner has approved for AIM (as large business AIM capable software).

A provisional taxpayer does not need to be GST-registered to use AIM. Where a provisional taxpayer chooses to use AIM and is not GST registered they must pay provisional tax on a two-monthly basis.

If a taxpayer misses a payment the existing interest and penalties rules apply to the underpaid amount.

Ineligible to use AIM

In certain circumstances a taxpayer may be excluded from using AIM. Section RC 5(5B) of the Income Tax Act 2007 provides that a taxpayer can be excluded from using AIM if the taxpayer:

- has been liable in 1 of the last 4 years before the current year for a shortfall penalty in relation to their use of AIM;
- has consistently and systematically used AIM to inaccurately assess its tax liabilities;
- is a member of a class of taxpayers which is excluded from using AIM in a determination issued by the Commissioner under section 91 AAY of the Tax Administration Act 1994 (see *Determination A1*);
- has failed more than twice in the current tax year to give the Commissioner information in the prescribed form (Statement of Activity).

The Statement of Activity is important because it demonstrates the robustness of the accounting system behind the amount paid as provisional tax. If this information is not provided to Inland Revenue, there would be no evidence that a comprehensive accounting system is being used by the business to calculate its accounting income results. As the Statement of Activity reports would be cumulative, if one is missed it could be supplied in the following period.

Where a taxpayer is removed from AIM under section RC 5(5C) of the Income Tax Act 2007 they are treated as using the estimation method for the whole of the current income year and may be subject to use-of-money interest.

Determinations

The determinations are an integral part of AIM as they outline the tax adjustments that may be required to accounting income to determine the amount of provisional tax payable for an instalment period. These determinations have recently been signed and are included in this *Tax Information Bulletin* to provide a complete guide to AIM.

Broadly, determinations issued by the Commissioner detail for software developers the minimum tax adjustments required within the AIM capable software to calculate provisional tax payments and the information required to be provided with AIM payments. They also act as a guide for taxpayers and their agents on the options available in calculating their payments.

The Commissioner may issue determinations in two circumstances:

- technical determinations under section 91 AAX of the Tax Administration Act 1994; and
- a determination excluding classes of taxpayers from using AIM under section 91 AAY of the Tax Administration Act 1994.

Technical determinations detail the tax adjustments required for accounting income and expenditure under the AIM method and Inland Revenue's information requirements regarding AIM.

In making technical determinations the Commissioner must have regard to three areas:

- the accuracy resulting from the tax adjustments;
- the compliance costs incurred by taxpayers in making these adjustments; and
- the resources available to the AIM software providers.

In making a determination to exclude classes of taxpayers from using AIM the Commissioner must have regard to the risk that allowing the class of taxpayers to use the AIM method will result in less net revenue collectable from that class of taxpayers over time.

Where a determination is issued under section 91 AAX or 91 AAY the Commissioner must give at least 120 days notice of the implementation date in a publication chosen by the Commissioner.

Determinations issued under either section must also be published within 30 days of the making of the determination in a publication chosen by the Commissioner.

Technical determinations

The AIM method must result in a reasonably accurate assessment of the tax liabilities for a taxpayer.

Accounting income and expenditure does not necessarily equate to net income for tax purposes. For this reason a series of tax adjustments are required to be made to accounting income and expenditure to accurately calculate the provisional tax liability.

Software providers delivering AIM will build these tax adjustments into their software systems. The minimum adjustments that may be required are outlined in the technical determinations section of this *Tax Information Bulletin*.

Adjustments not defined in the technical determinations will be designed by the software providers themselves, with the requirement they always calculate tax liabilities using tax adjustments that result in reasonably accurate assessments of tax liabilities for taxpayers. These may include accruals or estimates for other matters that would typically be adjusted for in the year-end process – for example, entertainment expenditure is not required to be adjusted for but developers may want to include the adjustment to get a more accurate level of provisional tax paid for their customers.

Summary of technical determinations issued by the Commissioner

Examples on how the determinations will apply are included in the technical determinations as interpretation aids.

1. Depreciation – Determination A8

Subpart EE of the Income Tax Act 2007 quantifies the amount of depreciation recovery income that is income under Part C and quantifies the amount of depreciation loss a person is allowed as a deduction where the provisions of Part D are satisfied.

The Commissioner's depreciation determination requires a person to choose for an income year to either calculate depreciation and/or amortisation related amounts using the relevant provisions in the Income Tax Act 2007 or to exclude such amounts from accounting income and expenditure.

An AIM-capable accounting system will have the functionality to allow taxpayers to calculate depreciation and/or amortisation related amounts within their accounting software or calculate such amounts outside their accounting software and then include them as a user defined adjustment in their accounting software.

2. Trading stock – Determination A5

The Commissioner's trading stock determination details the tax adjustment required for trading stock as that term is defined in section EB 2 of the Income Tax Act 2007.

The determination applies to taxpayers who operate a periodic inventory system where their stock-take periods do not align with their AIM instalment periods. It does not apply where a taxpayer has a perpetual inventory system that adjusts accounting income and expenditure to record movements in trading stock for the AIM instalment period, as stock movements using that system should be incorporated into accounting income and expenditure.

Where a person operating a periodic inventory system does not complete a physical stock-take to determine closing stock for the AIM-instalment period the determination requires that a tax adjustment is made so that the person's closing value of their trading stock for the period equals the closing value of their trading stock for the income year before the current income year under section CH 1 of the Income Tax Act 2007. The opening value of the person's trading stock for the next AIM instalment period is equal to the closing stock value.

The tax adjustment in the determination is intended to achieve the same outcome for an AIM instalment period as section EB 23 of the Income Tax Act 2007 achieves for an income year.

The effect of the tax adjustment is to allow a deduction to accounting expenditure for the purchases made during the AIM instalment period.

Where the closing value of a taxpayer's trading stock for the income year before the current income year is materially different from the closing value of a taxpayer's trading stock for the AIM instalment period a physical stock-take should be undertaken to ensure a reasonably accurate calculation of the provisional tax liability for the income year.

An AIM-capable accounting system will have the functionality to allow a user defined adjustment which allows a value for the closing stock to be manually entered into the software.

3. Livestock – Determination A10

The Commissioner has issued a livestock determination which applies to livestock which is excluded from being trading stock due to the application of section EB 2(3)(f) of the Income Tax Act 2007.

Changes in numbers and values of livestock on hand from one year to the next can have a significant impact on a farmer's gross income.

To ensure the provisional tax liability under AIM is calculated with sufficient accuracy where a taxpayer does not have a perpetual inventory system to determine the closing value of livestock for an AIM instalment period, the taxpayer must complete a physical stock-take for the AIM instalment period.

A tax adjustment must be made to record the closing stock value which has been determined by the physical stock-take.

4. Private expenditure – Determination A4

A person is denied a deduction for an amount of expenditure or loss to the extent to which it is of a private or domestic nature. This is set out in section DA 2(2) of the Income Tax Act 2007.

The Commissioner has issued a private expenditure determination which requires a tax adjustment to accounting expenditure to the extent to which that expenditure includes expenditure which is of a private or domestic nature.

5. Losses – Determination A7

The AIM provisional tax method calculates the provisional tax liability based on year-to-date accounting income and expenditure for the current income year.

Where a loss arises in an earlier AIM instalment period that loss may be carried forward and offset against accounting income and expenditure for the next AIM instalment period until the loss is fully utilised. This should automatically occur within the AIM-capable software as it will calculate year-to-date income and expenditure.

In the event that a taxpayer has a loss balance under section IA 3(4) of the Income Tax Act 2007 from a prior income year, that loss becomes available to the taxpayer using AIM on the date the income tax return for the prior income year is assessed. The loss balance carried forward is allowed as a tax adjustment to increase accounting expenditure in the instalment period the assessment takes place.

The utilisation of losses that arose in a prior AIM instalment or prior income year are still subject to the commonality and continuity rules in the Income Tax Act 2007. Where these rules mean that a loss is not available in an AIM instalment period, a system or user defined adjustment will be required to ensure the software system calculates the provisional tax liability for the income year correctly.

Companies are not permitted to use loss offsets or subvention payments in AIM.

6. Accounts receivable and accounts payable – Determination A6

The Commissioner has issued a determination detailing a tax adjustment for accounts receivable and accounts payable.

The determination provides that where a taxpayer is not registered for GST or is registered for GST on the payments basis they are not required to accrue accounts receivable and accounts payable in calculating accounting income and expenditure.

Where a taxpayer is registered for GST on the hybrid basis they are required to accrue receivables when calculating accounting income and are required to calculate accounting expenditure on a cash basis.

For taxpayers not registered or registered on the payments or hybrid basis an election may be made to accrue accounts receivable and accounts payable in calculating accounting income and expenditure. If an election is made it cannot be revoked.

Taxpayers registered for GST on an invoice basis must accrue accounts receivable and accounts payable when calculating accounting income and expenditure under AIM.

7. Provisions – Determination A9

As a general principle a provision will not meet the test of being incurred and therefore will not be deductible for tax purposes due to the application of section DA 1 of the Income Tax Act 2007.

The Commissioner has issued a determination which requires that where accounting expenditure includes a provision, a tax adjustment is made to exclude that expenditure.

However, the determination permits a provision to be included in accounting expenditure where the provision relates to expenditure on employment income for a shareholder of a company.

A deduction for such expenditure is limited to the extent to which the company pays tax as an agent of the shareholder in relation to the provision for shareholder remuneration income.

8. Tax rates – Determination A3

The Commissioner's tax rates determination prescribes the tax rates which an AIM-capable accounting system must apply to a taxpayer's net positive accounting income and expenditure (after tax adjustments) for an AIM instalment period.

An AIM-capable accounting system calculates the provisional tax liability on a year to date basis using the tax rates set out in Schedule 1, Part A, of the Income Tax Act 2007.

9. Information and form – Determination A2

The Commissioner's information and form determination sets out the information required and prescribed for the purposes of sections 45 and 45B of the Tax Administration Act 1994 by AIM taxpayers and providers.

Further details are set out below regarding the information which AIM taxpayers and providers will be required to provide to the Commissioner.

Exclusion determination

Under section 91 AAY of the Tax Administration Act 1994 the Commissioner may determine that a class of taxpayers must not use the AIM method.

The Commissioner has issued a determination under section 91 AAY (*Determination A1*) excluding the following classes of taxpayers from using the AIM method:

- trustees and beneficiaries of a trust;
- partnerships;
- taxpayers who have investments in foreign investment funds or controlled foreign companies for the income year;

- Māori authorities;
- portfolio investment entities; and
- superannuation funds.

Payment dates

Taxpayers who use the AIM method are required to make provisional tax payments more often – in line with their GST filing dates.

Taxpayers registered for monthly GST will make payments twelve times a year and those not registered, registered two or six-monthly for GST will make payments six times a year.

The payment dates for each AIM instalment are prescribed by section RC 9(4B) of the Income Tax Act 2007 and align with the payment dates for GST.

Refunds

Under section RM 6B of the Income Tax Act 2007 the Commissioner can refund amounts of overpaid AIM provisional tax throughout the income year where the AIM payments to date are greater than the AIM calculation of the tax liability year-to-date.

There is no requirement for a taxpayer to file an imputation credit account return mid-year to access an overpayment of AIM provisional tax.

Section 120 VB of the Tax Administration Act 1994 provides that no use-of-money interest is payable to the Commissioner on overpaid AIM provisional tax.

Information requirements

Information will be provided to Inland Revenue by both the AIM taxpayer and the AIM provider.

Under section 45 of the Tax Administration Act 1994 taxpayers using the AIM method are required to provide the Commissioner with a Statement of Activity on or before each AIM instalment date.

An AIM-capable accounting system will have the functionality to map ledger accounts into a Statement of Activity form which is provided to the Commissioner through the software itself.

The Statement of Activity form is not a tax return. It is a summary of what is in the accounting software at the date the Statement of Activity is provided to the Commissioner.

Under section 45B of the Tax Administration Act 1994 AIM providers must provide information to the Commissioner when and if requested in relation to their AIM-capable software products. The Commissioner cannot require taxpayer-specific information to be provided under this section. Information required by the Commissioner under section 45B must be provided within six months of the end of the tax year. Collection of this information will assist the Commissioner with further policy development and improvements to AIM.

Interest and penalties

Where an AIM taxpayer makes the payments calculated by their AIM-capable accounting software by the instalment date section 120 KBC of the Tax Administration Act 1994 provides that they will not be exposed to use-of-money interest should the year-end residual income tax liability result in a different tax liability, until their terminal tax date.

This is subject to the taxpayer not having entered a provisional tax interest avoidance arrangement which is defined in section 120 KBB(4) of the Tax Administration Act 1994.

If an AIM taxpayer pays less than what their AIM-capable accounting software calculates, use-of-money interest will be imposed on the shortfall from the date of underpayment.

Late payment penalties may also apply if a payment of provisional tax is made after the AIM instalment date.

Section RC 5C of the Income Tax Act 2007 provides that where an AIM provisional taxpayer has been removed from AIM they will be required to use the estimate method and will be subject to use-of-money interest.

Section 120 VB of the Tax Administration Act 1994 provides that no use-of-money is payable by the Commissioner on overpaid AIM provisional tax.

The definition of "tax position" in section 3(1) of the Tax Administration Act 1994 has been amended so that the use of the AIM provisional tax method, including the use of the software, is within the meaning of the term "tax position" in the Tax Administration Act 1994.

This will require that taxpayers take reasonable care in the calculation of their provisional tax payments throughout the year in terms of section 141A of the Tax Administration Act 1994.

However section 141B of the Tax Administration Act 1994 has been amended to provide that a taxpayer does not take an unacceptable tax position merely by using the AIM method and an approved AIM provider's AIM-capable accounting system. Taxpayers paying AIM provisional tax using a large business AIM-capable accounting system or who have been approved to continue using AIM as their income has grown over $5 million will continue to be subject to the unacceptable tax position penalty.

Under section 119(1)(cb) of the Tax Administration Act 1994 the Commissioner may determine the amount of provisional tax due under AIM if the tax liabilities calculated are not reasonably accurate assessments of tax liabilities for the relevant income and expenditure.

Example 4

Tussock Socks Ltd has been paying its provisional tax using AIM. On its third AIM provisional tax payment date, the software calculated that Tussock Socks Ltd owed $500 in provisional tax to Inland Revenue and submitted the Statement of Activity showing this amount to be due. Instead of paying $500 to Inland Revenue, Tussock Socks Ltd only paid $100.

Tussock Socks Ltd will be liable for UOMI and late payment penalty on the $400 underpayment until it is paid (or the liability is extinguished by a future instalment period).

Example 5

Cameo Jewels Ltd is a small jewellery company using AIM to pay its provisional tax. It calculates its provisional tax payments using software, and makes the payments accordingly. At year-end the company meets with its accountant who discovers their depreciation was calculated incorrectly and a bad debt had not been written off, resulting in additional income tax due of $300. Cameo Jewels Ltd pays this amount of terminal tax and has no UOMI or shortfall penalty applied. As these errors are simple oversights it is likely Cameo Jewels Ltd has taken reasonable care in the calculation of its tax liability.

Example 6

Tiger Fins Corporation is a fishing company that uses specialised fishing industry software approved by Inland Revenue as large business AIM capable (for businesses whose turnover is over $5 million). It has discovered that if it categorises its catch in different fish quantities and qualities it can lower its income tax liability. Upon receipt of the company's Statement of Activity and audit queries, this misuse of the company's software is brought to Inland Revenue's attention.

Tiger Fins Corporation (as a large business AIM-capable taxpayer) would be removed from AIM, placed in the estimate method, be subject to UOMI and late payment penalties on what the company's income was determined to be by the Commissioner. It is also likely the company would be considered to have taken an unacceptable tax position in the calculation of its tax liability

Tax pooling

Sections RP 17 and RP 17B of the Income Tax Act 2007 provide that tax pooling cannot be used for AIM provisional tax.

However, tax pooling can continue to be used for terminal tax and reassessments.

Transfers of overpaid provisional tax

Under section LA 6(2)(db) of the Income Tax Act 2007 a company using AIM may transfer excess tax credits to shareholders and reduce the shareholders' use of money interest liability.

Section 120 LB of the Tax Administration Act 1994 provides that the amount transferred does not give rise to a tax credit for the shareholder but is treated as transferred tax paid for the year that the provisional tax credit relates to. The total amounts transferred to the shareholder are pro-rated against all of their provisional tax instalments for the year.

The transfer is treated as a refund for the purposes of the AIM Company's imputation credit account.

Example 7

Bogart Bugles Ltd is a retailer that sells musical instruments, owned equally by John and Lynn. They elect to use AIM for their businesses and in the income year ending 31 March 2019 make the following overpayments in AIM. All parties have a March balance date.

Provisional tax payment dates	28-Jun 2018	28-Aug 2018	28-Oct 2018	15-Jan 2019	28-Feb 2019	7-May 2019
Bogart Bugles Ltd AIM overpayments	$100	$100	$100	$100	$100	$100
Shareholder provisional tax liability due dates		$200		$200		$200

In this instance, Bogart Bugles Ltd can easily transfer its overpaid provisional tax at year-end to John and Lynn to meet their provisional tax liabilities. As the dates align there will be no UOMI charges on John and Lynn.

Example 8

Murray's Mutts Ltd is a dog breeding operation owned by Sarah and Gareth. Murray's Mutts Ltd has an agreed July balance date, as is common in the dog breeding industry. Sarah and Gareth have standard March balance dates. The payment schedule for the 2019 income year would look as follows:

Provisional tax payment dates	28 Aug 2018	28 Oct 2018	15 Jan 2019	28 Feb 2019	7 May 2019	28 June 2019	28 Aug 2019
Murray's Mutts Ltd AIM overpayments		$100	$100	$100	$100	$100	$100
Shareholder provisional tax liability due dates	$150		$150		$150		

In this instance, Murray's Mutts Ltd would be able to transfer its excess provisional tax payments to Sarah and Gareth despite there being a mismatch in their provisional tax dates. These transfers would be calculated and transferred at Murray's Mutts Ltd's year-end.

Murray's Mutts Ltd's transfer is limited to the amount of overpaid tax in Murray's Mutts Ltd – that is, the company cannot transfer more than $450 as the transfer cannot be more than Sarah and Gareth's provisional tax underpayment for the year. Payments can be transferred to Sarah and Gareth at their 2019 provisional tax dates, negating any UOMI exposure.