Inland Revenue
Te Tari Taake

DETERMINATION > COVID-19 VARIATION

Variation in relation to the definition of "finance lease" in s YA 1 of the Income Tax Act 2007

Issued: 30 June 2020

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EFFECTIVE: 17 March 2020 to 30 November 2020

Variation

The Commissioner of Inland Revenue has, under the discretion provided under section 6I of the Tax Administration Act 1994, made the following statutory variation:

> The time period of "more than 75% of the asset's estimated useful life" referred to in paragraph (b) of the definition of "finance lease" in s YA 1 of the Income Tax Act 2007 is extended to "more than 75% of the asset's estimated useful life plus an additional 18 months" where the term of the lease is extended between 14 February 2020 and 30 November 2020.

This variation is subject to the conditions that:

- The lease was entered into before 14 February 2020.
- The lease term was not more than 75% of the estimated useful life when the lease was entered into.
- The lease term is not extended more than 18 months beyond the end of its term as at 14 February 2020.
- The lease was extended because:
  - The lessee was prevented or discouraged from returning the lease asset at its scheduled maturity because of restrictions imposed in response to COVID-19; and/or
  - In the period between January 2020 and November 2020 the lessee's business has experienced a significant decline in actual (or predicted) revenue which means the lessee had difficulty satisfying their existing lease agreement; and that decline in actual or predicted revenue is related to COVID-19.

Application date

This variation applies from 17 March 2020 to 30 November 2020.

Dated at Wellington on 30 June 2020.

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Background (material under this heading does not form part of the variation)

Summary of effect

1. An operating lease of an asset has a maximum term of 75% of the asset's estimated useful life before it is treated for tax purposes as a finance lease (with different tax treatment) under the Income Tax Act 2007. Lessors and lessees may have agreed to extend lease terms (or intend to do so) due to the difficulties of transferring possession of the asset during COVID-19 restrictions, or due to the financial impacts of COVID-19. The time period in the definition of "finance lease" has been extended using s 6I of the Tax Administration Act 1994 to allow certain extended leases to continue to be treated as operating leases.

Provisions affected

2. Paragraph (b) of the definition of "finance lease" in s YA 1 of the Income Tax Act 2007.

Application of variation

3. This variation applies to a person who has entered into an operating lease of an asset, but the lease term has been extended beyond 75% of the estimated useful life of the asset, and so in the absence of this variation it would be reclassified as a finance lease for tax purposes, with associated complexity and compliance costs.

4. The variation is subject to the conditions that the lease was entered into before 14 February 2020; that the lease term was not more than 75% of the estimated useful life when the lease was entered into; and that the lessee was prevented or discouraged from returning the lease asset at scheduled maturity, or because the lessee's business has experienced a significant decline in actual or predicted revenue related to COVID-19 meaning the lessee had difficulty in satisfying their existing lease agreement.

5. Customers who may wish to apply this variation should note:

   - A lessor and lessee are not required to adopt the same treatment of the lease asset as both parties can make their own decision about whether they rely on the variation;
   - Customers do not need to take the same approach to all leases they have entered into for the same class of lease asset;

- The variation applies to leases that are extended between 14 February 2020 and 30 November 2020 and is not limited to leases where the lease term would otherwise have ended during that period.

References

Legislative references

Tax Administration Act 1994: ss 6H and 6I

Income Tax Act 2007: s YA 1, paragraph (b) of the definition of finance lease

About this publication

To help customers manage the impacts of COVID-19, the Commissioner now has a discretion to vary a requirement under an Inland Revenue Act (including for these purposes, the Unclaimed Money Act 1971). This discretion is found in ss 6H and 6I of the Tax Administration Act 1994 and applies from 17 March 2020 to 30 September 2021. This variation is an exercise of that power.