

DETERMINATION > COVID-19 VARIATION

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

Issued: 14 December 2021

COV 21/06

EFFECTIVE: 14 December 2021 to 31 March 2022

Determination

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 17 August 2021 and 31 March 2022.

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, in the period between 17 August 2021 and 31 March 2022, the lessee’s business has experienced a significant decline in actual or predicted revenue due to COVID-19, and the lessee has been able to extend the lease term in return for reduced or deferred lease payments.

Application date

This variation applies from 14 December 2021 to 31 March 2022

Dated at Wellington on 14 December 2021

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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 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; that the lease term is not extended by more than 18 months; and that the lessee has experienced a significant decline in actual or predicted revenue due to COVID-19 and has been able to extend their lease term in return for reduced or deferred lease payments.
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 17 August 2021 and 31 March 2022 and is not limited to leases where the lease term would otherwise have ended during that period.

Associated variations:

6. This variation has the same effect as the earlier COV 20/08 “Variation in relation to the definition of “finance lease” in s YA 1 of the Income Tax Act 2007” which expired on 30 November 2020, and COV 20/12 which expired on 31 March 2021. This and the earlier two variations provide additional time for a person to decide whether to extend their operating leases without them becoming finance leases for tax purposes.

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 document

These variations concern the Commissioner’s additional discretion to extend a due date, deadline, time period or timeframe or vary a procedural or administrative requirement arising from COVID-19 or the Government’s response measures.