

DIG ref no	Project name	Issue	Decision / Status
DIG-001	Look through company elections (s HB 13(3)(b) of the Income Tax Act 2007)	Whether to extend the date by which new and non-active companies can elect to become an LTC to 30 June 2020.	Published as COV 20/01
DIG-002	Tax on sale of residential property (s CB 6A of the Income Tax Act)	Whether income should not be liable to tax under the bright-line test where residential land was acquired to erect a dwelling but those plans change as a consequence of COVID-19.	No variation should be made. Sections 6H and 6I do not allow the CIR to vary the 5-year bright-line rule because of the impacts of COVID-19 where taxpayers purchased a property for development and use as their main home, but sold it because of the impacts of COVID-19. The discretion to extend timeframes and vary procedural or administrative requirements cannot operate to exclude a sale in these circumstances.
DIG-003	Overseas based borrowers (s 112(1)(b) of the Student Loans Scheme Act)	Some overseas based borrowers may incur additional interest as a result of being unable to pay on time due to COVID-19. Relief is available but requires individual application. The issue is whether the Commissioner can consider a class of case variation that may be applied to all overseas based borrowers affected by COVID-19.	No variation should be made. Sections 6H and 6I do not allow the CIR to vary the payment dates for a student loan borrower's overseas-based repayment obligations as existing provisions enable relief to be granted depending on individual circumstances. Individual borrowers should advise the CIR they are experiencing difficulties in meeting their obligations.
DIG-004	Effective date for change of GST filing period	Whether the time limit for changing GST filing frequency from a 6-monthly basis to a monthly basis can be extended.	Published as COV 20/03 .
DIG-005	Does s 183ABAB remission use up grace period?	Whether a customer who is granted remission under the new section 183ABAB of the TAA will "use up" their grace period in respect of late payment penalties charged under section 139B of the TAA. These customers ordinarily would not have paid late and would continue to have the grace period available to them had they not been affected by Covid-19.	Being considered.

DIG-006	Change date for when return filed for provisional tax (s RC 5(3) of the Income Tax Act)	Whether returns filed by 30 March can be treated as filed on 31 March so that the requirements of s RC 5(3) could be met and the 2018 RIT be used for P2. This would then enable lower amounts of provisional tax to be payable for P2.	No variation should be made. Sections 6H and 6I do not allow the CIR to treat an income tax return filed by 30 March as having been filed on 31 March so that the requirements of s RC 5(3) are met. The discretion to extend timeframes and vary procedural or administrative requirements cannot operate to alter the date when a return is received by the CIR.
DIG-007	Extension of time to file and pay RWT	Whether an extension of time should be made for filing and paying RWT.	Further information was sought after this request was originally made. It appeared that this was not a widespread issue and that most affected customers were complying. Accordingly, no variation was made.
DIG-008	Whether application required for UOMI relief	Whether relief can be given where someone has paid late, not made an instalment arrangement for a debt due on or after 14 February 2020, and not requested remission of interest.	No variation should be made. The variation of s 183ABAB that is sought would not be limited in its effect to only providing relief from UOMI for taxpayers whose ability to make payment on time has been affected by COVID-19 but would provide relief for late-paying taxpayers generally, something not within the purpose of the variation power as expressed in s 6H(2).
DIG-009	Extension of term of operating leases	Whether to permit extensions to leases without triggering the conversion of an operating lease into a finance lease, even if the extension meant the term extended beyond 75% of the property's useful life. This would be time-limited and restricted to situations where a lease is extended due to hardship as a result of COVID-19.	Published as COV 20/08 .
DIG-010	Late elections for change of provisional tax method	Whether to extend the date for electing to use the GST ratio method to set provisional tax.	No variation should be made. Sections 6H and 6I do not enable the CIR to extend the deadline for electing to use a GST ratio method as existing provisions enable an appropriate outcome. The CIR has used her care and management powers in ss 6 and 6A of the TAA to allow any person unable to make a GST ratio election before the start of the 2021 income year due to the effects of COVID-19 or the imposition of COVID-19

			response measures, to have until 19 August 2020 or the day before the start of the 2021 income year (whichever is the later) to inform the Commissioner of their election. See the website for further details.
DIG-011	Extension of time for filing GST returns	Whether an extension of time should be made for filing and paying GST.	No variation should be made. Sections 6H and 6I do not allow the CIR to vary the due dates and payment dates for GST returns as existing provisions enable relief to be granted depending on individual circumstances. Customers should advise the CIR if they are experiencing difficulties in meeting their obligations.
DIG-012	Tax pooling – 365-day timeframe for 2019 tax year transfers	Whether to extend the date for allowing transfers under tax pooling arrangements.	Published as COV 20/05 .
DIG-013	Extension of time for filing R&D loss tax credit forms	Whether to extend the deadline allowed for filing a statement in relation to R&D loss tax credits and R&D repayment tax under s 70C.	Published as COV 20/07 .
DIG-014	Spread timber income under s EI 1	Whether to extend the date for electing to spread income from the sale of timber back over previous years.	Published as COV 20/02 and COV 20/06 (the latter extending to include 30 June income years)
DIG-015	Extension of time for filing 2019 income tax returns (s 37 of the Tax Administration Act)	Whether to provide a blanket extension of time for filing 2019 income tax returns.	No variation should be made. Sections 6H and 6I do not enable the CIR to extend the due dates for all 2019 income tax returns due by 31 March 2020 as existing provisions enable relief to be granted depending on individual circumstances. The CIR has already decided that any late filing penalties will be waived for returns filed late due to the impact of COVID-19. Extending the due date would introduce complexity and uncertainty as it would also alter the timing required in many other provisions.

DIG-016	Smoothing income (FATCA)	Ability to smooth income when testing whether a trust is a financial institution for FATCA and CRS (volatility of rental and financial asset income may move them in and out of the FI definition).	No variation should be made. Sections 6H and 6I provide the CIR with a discretionary power in relation to an Inland Revenue Act. This request asked the CIR to vary the effect of international agreements. However, if you do need an extension for filing your disclosures because of COVID-19, please get in touch with us so we can work something out. Email us at either: fatca@ird.govt.nz or global.aeoi@ird.govt.nz
DIG-017	Bad debt write-offs	Whether to extend the time by which a debt must be written off as bad in order for a deduction to be available in the 2020 income year.	Published as COV 20/04 .
DIG-018	Usual location test (s YD 1 of the Income Tax Act)	Ability to apply a 'usual location' test for the 183 days personal tax residency test or to say that a mandatory stay in NZ does not count as a day in NZ.	No variation should be made. Sections 6H and 6I do not enable the CIR to alter the application of the test for determining whether a person is personally present in New Zealand or to extend the 183 day requirement as existing provisions enable relief to be granted depending on individual circumstances. The CIR has instead used her care and management powers in ss 6 and 6A of the TAA to allow a changed application of the law in some circumstances. Published on IR website: https://www.ird.govt.nz/covid-19/international/tax-residency
DIG-019	Employer premises	Ability to confirm that home, for those working from home, is the employer's premises for FBT purposes.	No variation should be made. Sections 6H and 6I do not enable the CIR to vary what is the employer's premises for the purposes of the FBT rules. However, the key issue raised was whether FBT arises for employees using employer provided motor vehicles for home to work travel during COVID-19 restrictions. The CIR has already confirmed that under the existing FBT provisions no FBT will arise in these circumstances where an employee was required to work from home because of COVID-19. Published on IR website: https://www.ird.govt.nz/covid-19/business-and-organisations/employing-staff/fringe-benefit-tax

DIG-020	Beneficiary income for the 2019 income year (s HC 6(1)(b) of the Income Tax Act)	Whether to allow late distributions of beneficiary income for the 2019 income year.	<p>No variation should be made. Sections 6H and 6I do not enable the CIR to extend the time period within which distributions of “beneficiary income” can be made for the 2019 income year as existing provisions enable relief to be granted depending on individual circumstances.</p> <p>The CIR has instead used her care and management powers in ss 6 and 6A of the TAA to extend the date for making payments of beneficiary income to 15 July 2020 in some circumstances. Published on IR website:</p> <p>https://www.ird.govt.nz/covid-19/business-and-organisations/specific-income-tax-issues/beneficiary-distributions</p>
DIG-021	Provisional tax 3 rd instalment	Whether to extend the due date for the payment of the 3rd instalment of 2020 provisional tax.	<p>No variation should be made as there are existing processes that more appropriately deal with any COVID-19 related difficulties that customers may have in paying their provisional tax instalment by 7 May 2020.</p>
DIG-022	FBT return date	Whether to extend the due date for filing the FBT return for the quarter ended 31 March 2020.	<p>No variation should be made. Sections 6H and 6I do not allow the CIR to extend the due date for filing FBT returns due 31 March 2020 as existing provisions enable relief to be granted depending on individual circumstances.</p> <p>Customers should advise the CIR they are experiencing difficulties in meeting their obligations.</p>
DIG-023	Extension for filing 2020 income tax returns	Whether to extend the due date for filing income tax returns for the year ended 31 March 2020 for customers without tax agents or extensions of time.	<p>No variation should be made. Sections 6H and 6I do not allow the CIR to extend the due date for filing income tax returns due 7 July 2020 as existing provisions enable relief to be granted depending on individual circumstances.</p> <p>Customers should advise the CIR they are experiencing difficulties in meeting their obligations.</p>
DIG-024	Excluding foreign exchange gains occurring at 31 March 2020	Whether to exclude foreign exchange gains from needing to be accounted for at 31 March 2020 that arose because of significant currency fluctuations related to COVID-19.	<p>No variation should be made. Sections 6H and 6I do not enable the CIR to exclude unrealised foreign exchange gains under the financial arrangements rules as at 31 March 2020. This would require the variation of a Determination (G9A)</p>

			<p>which is not an Inland Revenue Act and therefore cannot be varied under this power.</p> <p>Also, even if the power was available, the discretion to use it should not be exercised as the foreign exchange gains that have arisen are indicative of currency fluctuations that the rules are intended to tax, or may be part of a wider arrangement that has not made a gain. Therefore, the Determination should apply as usual.</p>
DIG-025	Extension of timeframe under s 52(3) GST Act	Whether the CIR can extend the 12-month timeframe for cancelling a customer's GST registration where there are reasonable grounds for believing that the taxable activity will, in the future, be carried on.	Published as COV 20/09 .
DIG-026	R&D tax incentive general approval due date	Whether the CIR can provide a 6-month extension to the time to file the R&D tax incentive general approval notice for the 2020-21 year.	Published as COV 20/10 (3-month extension).
DIG-027	Residency – 183 day rule and transitional residence	Whether residency (183 day rule) should commence on arrival in NZ, or on completion of a mandatory period of quarantine or managed isolation; and whether the 10 year period for transitional residency should be reduced in some circumstances	<p>No variation should be made. Sections 6H and 6I do not enable the CIR to make the variation sought in relation to the 183-day rule. In any case no variation should be made as a key aspect of the commencement of a person's tax residency is the taxation of their worldwide income and being in mandatory isolation or quarantine should not alter that.</p> <p>The transitional residence rules should not be modified as a modification would create unfairness and affect perceptions of the integrity of the tax system.</p>
DIG-028	Effective date for change of GST filing period	Request for extension of COV 20/03 (DIG-04) to allow immediate change to one-monthly GST filing.	Published as COV 20/11 .
DIG-029	GST change of use adjustments	Query regarding DIG-25 and whether change of use adjustments are needed for short-stay accommodation providers.	No variation should be made. The CIR's discretionary power under ss 6H and 6I should not be exercised to vary the application of the change of use adjustment provisions in the GST Act for short stay accommodation providers who change to making exempt supplies. This is because it is not consistent with the intent of the adjustment provisions to

			defer payment of adjustments in circumstances where it is likely that some customers will not return to 100% taxable use.
DIG-030	Extension of term of operating leases	Request for extension of COV 20/08 (DIG-009). Whether to permit extensions to leases without triggering the conversion of an operating lease into a finance lease, even if the extension meant the term extended beyond 75% of the property's useful life. This would be time-limited and restricted to situations where a lease is extended due to hardship as a result of COVID-19.	Published as COV 20/12 .
DIG-031	Effective date of election to form imputation group.	Request for an extension of the time period to elect to form an imputation group for the 2020 income year.	Published as COV 21/02 .
DIG-032	R&D tax incentive due dates	Whether due dates can be extended for various RDTI returns and applications	Published as COV 21/01 extending the due dates for 2020 supplementary returns and 2021 criteria and methodology approvals.
DIG-033	Extension of term of operating leases	Further request for extension of COV 20/08 (DIG-009). Whether to permit extensions to leases without triggering the conversion of an operating lease into a finance lease, even if the extension meant the term extended beyond 75% of the property's useful life. This request was based not on physical inability to return vehicles or financial hardship but on delays in being able to obtain replacement vehicles.	No variation should be made. In the circumstances described in the request the nexus with COVID-19 is more remote, and compliance with the finance lease rules (including transitional calculations) is not now “impossible, impractical or unreasonable”.
DIG-034	Extension of s 183ABAC of the TAA to the 2021-22 tax year	Whether the variation power allows s 183ABAC of the TAA to be varied so it applies to the 2021-22 tax year (the provision currently applies to the 2020-21 tax year only).	No variation should be made. Sections 6H and 6I do not enable the CIR to make the variation sought in relation to s 183ABAC of the TAA.

DIG-035	Effective date for change of GST filing period	Whether s 15D(2) of the GST Act can be varied to allow a change in GST filing frequency from a 6-monthly basis to a 1-monthly basis. See also COV 20/03 (DIG-004) and COV 20-11 (DIG-028).	Published as COV 21/03 .
DIG-036	Request for amendment of COV 20/10 in relation to RDTI GA filing deadlines, and extension for 2021-22 CAM applications.	COV 20/10 extended 2020-21 RDTI GA filing deadlines by 3 months. However, at the time of issue, the CIR's COVID variation power ended on 30 September 2021. Consequently, late balance date businesses could not benefit from the full extension whereas early and standard balance date businesses did. Extension for 2021-22 CAM applications sought on basis of recent lockdown.	Extension of time GA filing deadlines for late balance dates published as COV 21/04 . Extension for CAM applications being considered.