QUESTIONS WE'VE BEEN ASKED

Income Tax and Goods and Services Tax – Treatment of bloodstock breeding

Issued: 6 September 2022

QB 22/07

This Question We've Been Asked (QWBA) clarifies the Commissioner's view on certain aspects of the income tax and GST treatment for persons who own bloodstock for the purposes of carrying on a bloodstock breeding business.

Key provisions

Income Tax Act 2007 – ss CH 1(3), CW 60, DB 49(3), DW 2, EC 39 to EC 46, HG 1 and HG 2

Goods and Services Tax Act 1985 – ss 6 and 20(3C)

Question

Income tax

We have been asked to consider how the bloodstock provisions apply where a person is purchasing their first horse with a view to breeding it for profit in the future. In the meantime, they will race the horse for several years to try to improve its breeding value.

The specific income tax issues we have been asked to consider are:

- **whether s EC 39 allows a write-down in the year of purchase;**
- **whether, if the person is a partnership, partners carrying on another bloodstock breeding business may apply the write-down in s EC 39; and**
- **how to treat the sale of breeding stock when the person is carrying on a bloodstock breeding business.**

GST

The specific GST issue we have been asked to consider is whether a person in a situation with the following characteristics is carrying on a taxable activity for GST purposes:

- **The horse selected is a thoroughbred horse with a top pedigree and cost in excess of $200,000.**
- **The person engages an experienced manager with the necessary contacts to carry out actions needed to implement the breeding plan once the person reaches the phase of actually breeding from the horse.**
- **The person engages an experienced trainer with a history of training successful racehorses.**
- **The person implements (and follows) a detailed plan covering the purchase of the horse, care, training, racing and breeding, including the estimated timeframes and cost for each stage.**

The Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 introduced specific provisions for taxpayers acquiring certain high-priced bloodstock. For discussion of those rules see "New legislation: Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Act 2019", *Tax Information Bulletin* Vol 31, No 4 (May 2019): 3. This QWBA

considers the income tax treatment of bloodstock that does not come within those rules.

Answer

Income tax

A person purchasing their first horse with a view to racing that horse for several years before breeding will not be entitled to a write-down for that horse in the year of purchase. Section EC 39 requires the taxpayer to be carrying on a breeding business. The purchase of a person's first horse in these circumstances will not give rise to a breeding business.

Where the person is a partnership, partners that are carrying on another bloodstock breeding business (separate from the partnership) will be entitled to a write-down for their share of the horse:

- **if their share was bought with the intention of using the horse for breeding in the partner's (separate) breeding business; or**
- **at the point when the horse is being used for racing.**

Where a person is carrying on a bloodstock breeding business and sells bloodstock (whether before or after they have used the horse for breeding):

- **the sale proceeds will be income; and**
- **there will be no year-end add back in the year of sale for any carrying value for the bloodstock sold. This effectively means a deduction is allowed for the remaining value of the bloodstock (that is, the cost price less any previous write-down).**

GST

Although each situation must be considered on its facts, a person in a situation with the characteristics described above is likely to be carrying on a taxable activity. If so, they will be entitled to an input tax deduction for costs incurred in that taxable activity (for example, the purchase of the horse and ongoing costs). The person must also return GST on any supplies that they make (including race winnings and any bloodstock sold).

Explanation – Income Tax

1. All legislative references are to the Income Tax Act 2007 unless otherwise stated.

2. The Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 provides specific rules that apply to certain high-priced bloodstock purchased at a premier yearling sale. Where bloodstock comes within the new rules, subpart EC will allow a person to write down the cost of bloodstock even if the person is not carrying on a bloodstock breeding business. These rules are discussed in *Tax Information Bulletin* Vol 31, No 4 (May 2019): 3. This QWBA considers the income tax treatment of bloodstock that **does not** come within those rules.

3. The first issue is whether s EC 39 applies to allow a write-down in the year the first horse is purchased. This requires consideration of:

   - whether the purchase of the first horse will commence a "bloodstock breeding business"; and
   - where the person is a partnership, whether partners carrying on a bloodstock breeding business outside the partnership may apply the write-down.

4. Sections EC 39 to EC 48 set out the rules for valuing bloodstock used in a bloodstock breeding business. Section EC 39 specifies the closing value for bloodstock at the end of its first year in a breeding business. It applies to bloodstock that is two years of age or older at the end of the first income year in which a person:

   - uses the bloodstock for breeding in their breeding business (s EC 39(1)(a)); or
   - forms the intention of using the bloodstock for breeding in their breeding business (s EC 39(1)(b)); or
   - buys the bloodstock with the intention of using it for breeding in their breeding business (s EC 39(1)(c)).

5. The relevant paragraph in this situation is para (c). In summary, para (c) requires the taxpayer to purchase the bloodstock with the intention of using it for breeding "in their breeding business". In the situation being considered, the person is purchasing their first horse. Consequently, there will not be a breeding business in existence at the time they purchase the bloodstock. Therefore, it is necessary to consider when a bloodstock breeding business would commence. In particular, we were asked whether a breeding business could commence with the purchase of a single horse with a view to using it for breeding in the future and that will be raced prior to breeding to try to improve its breeding value.

6. The term "person" used in this QWBA has the meaning in the Legislation Act 2019 for income tax purposes and as defined in s 2 of the Goods and Services Tax Act 1985 for GST purposes and includes an individual, a company and a partnership. The analysis in this QWBA applies in the same way to any ownership structure under which bloodstock is held (with the exception of [34] to [41], which discuss provisions that are specific to partnerships and [42], which applies to joint ventures).

Whether a bloodstock breeding business commences with the first horse

7. The test for whether a business exists is set out in *Grieve v CIR* (1984) 6 NZTC 61,682. This test requires consideration of the nature of the taxpayer's activities and whether they have an intention to profit. The factors to consider in determining whether a business exists include:

   - the nature of the activity;
   - the period over which the activity is carried on;
   - the scale of operations and volume of transactions;
   - the commitment of time, money and effort;
   - the pattern of activity; and
   - the financial results.

8. *Grieve* also notes that, while the taxpayer's statements about their intentions are relevant, actions will often speak louder than words.

9. The Court of Appeal in *Calkin v CIR* (1984) 6 NZTC 61,781 considered what is necessary for a business to commence. The court found that a business will not commence until a profit-making structure is established and ordinary current business operations have begun (at 61,787):

> **There is too a distinction between transactions which are preparatory to the commencement of business and those which occur once the business has begun** which is well recognised in the authorities, if sometimes difficult of application in particular cases. Thus in the leading case, *Birmingham and District Cattle By-Products Co Ltd v Commrs of IR* (1919) 12 TC 92, Rowlatt J held that a company had not commenced business during the period in which the works were erected, plant assembled and agreements entered into for the purchase of materials preparatory to commencing manufacturing … **Clearly it is not sufficient that the taxpayer has made a commitment to engage in business: he must first establish a profit making structure and begin ordinary current business operations**. [Emphasis added]

10. This does not necessarily mean the business must be deriving income from its operations. In many industries, such as forestry and horticulture, a business can commence even though it will earn no income until the trees, plants or crops have sufficiently matured. However, this area of law is very fact specific, so the circumstances that are sufficient for the commencement of a business will vary from industry to industry and from case to case. Consequently, while it is possible to draw analogies with case law on other industries, the most relevant authorities will be those that consider horse racing and breeding.

Leading New Zealand authority – Drummond v CIR

11. The leading New Zealand authority in this area is the High Court decision in *Drummond v CIR* (2013) 26 NZTC 21,023; [2013] NZHC 1,768. In *Drummond*, Brewer J expressly considered whether a bloodstock breeding business had commenced when the syndicate purchased its first horse (this was considered as an alternative argument).

12. Brewer J found (at [13]) as a matter of fact that the plaintiffs joined the syndicate on the basis that the colt would be used as a stud stallion if that were feasible:

> [13] Against this background, I make the following findings of fact:
>
> …
>
> (b) The plaintiffs joined the syndicate on the basis that the colt would be used as a stud stallion if that were feasible.

13. Further, at [49] he stated:

> … I am entitled to infer from the evidence of Mr Ellis and from the evidence of the plaintiffs, corroborated by the syndicate members' use of the s EC39 regime, that it was the intention collectively of the syndicate to stand the colt at stud if that were feasible.

14. However, this was not sufficient to find that a breeding business had commenced. Brewer J found that it was necessary to have **a fixed intention to breed**, whereas the plaintiffs had only **a contingent intention** to use the colt for breeding purposes. In *Drummond*, whether the colt would ultimately be used for breeding was contingent on future events such as how it raced (at [76]) and whether it would be gelded (at [77]). The activities of acquiring, training and racing the colt – while furthering its chances of one day standing at stud – were preparatory to a breeding business, not a part of it.

15. Brewer J pointed to particular aspects of the syndicate agreement that he noted supported this conclusion. This raises the question of whether his Honour might have reached a different conclusion, if the relevant documentation between the parties

suggested a more definitive decision to breed when the horse was purchased. That is, was his Honour intending to set out criteria for an agreement that would be sufficient to evidence the commencement of a racing business when a colt is purchased?

16. In the Commissioner's view, the contingencies that Brewer J was concerned with could not have been overcome by correcting the perceived deficiencies in the syndicate agreement. Brewer J was looking for both decisions and actions: "In my view, what was required was a decision to stand the colt at stud and then activities aimed specifically at implementing that decision" (at [80]). His Honour, quoting *Grieve*, noted that "actions speak louder than words" (at [80]). The examples he gave of the sort of actions that would suffice were "making a stallion available for stud, or advertising it as available" (at [80]). While he stated that these examples were not prescriptive, both examples are close in time to the actual breeding activity and are not likely to occur until the contingencies with which Brewer J was concerned are no longer present.

17. In finding that an intention to breed, if that were feasible, was not a sufficient commitment or decision to breed, it seems Brewer J was also influenced by his finding that the taxpayers understood the high probability that the colt would never be able to stand at stud (at [74]). The effects of performance at the racetrack and the likelihood of gelding were at least part of the factual background against which his Honour concluded that the taxpayer had a contingent intention to breed, not a fixed one.

18. In the Commissioner's view, even if the syndicate agreement in *Drummond* had been more definitive, it would not have been possible for the agreement to do more than evidence an intention to breed the bloodstock if it were feasible to do so. Even with a more detailed plan to get from purchase to breeding, the same fundamental contingences that exist in *Drummond* would still exist. At the time the horse is purchased, which is several years before any actual breeding activity is planned to occur, the nature of the activity means the best that can be said is that a person is committed to breeding if that is feasible. And, in the horse breeding business, at the time of acquiring the horse, that can be only a contingent intention.

Other bloodstock business cases

19. It has also been suggested that *Case K40* (1988) 10 NZTC 343 supports the view that a breeding business can commence when a person purchases their first horse. The Commissioner agrees that, in some circumstances, a breeding business could commence with the purchase of a single breeding horse; for example, where mature bloodstock is purchased with a view to commencing breeding in a short timeframe. However, the decision in *Case K40* is distinguishable from both that situation and the one under consideration in several respects.

20. *Case K40* did not consider when the business in question began. The years under consideration (1981–1983) were several years after the taxpayer purchased their first mare (1973). By that time, the taxpayer owned several horses and had successfully bred and sold progeny from their horses. *Case K40* was concerned with whether the taxpayer was carrying on a hobby, rather than a business. In finding that a business existed in the relevant years, District Court Judge Keane considered the pattern of activity over the whole period.

21. Even if *Case K40* could be seen as suggesting that the taxpayer's business commenced when they acquired the first horse, the facts are very different to those being considered here. There was only a brief period of racing before breeding – the mare had successfully produced a foal within two years of purchase and had produced three foals within six years. The taxpayer also appears to have made an early decision about which stallion she wanted to service the mare. No evidence existed of any contingencies that would prevent the taxpayer from trying to breed from the mare of the type that the High Court was concerned existed in *Drummond*.

22. *MR & SL Block v FCT* (2007) ATC 2,735 also considered whether a partnership was carrying on a business of breeding thoroughbred horses or whether the activity was a hobby. The Administrative Appeals Tribunal concluded that the taxpayer (a husband and wife partnership) was carrying on a business. The Senior Member of the tribunal (A Sweidan) noted that the husband and wife had purchased their first mare and bred her to produce a foal in 1991. Between 1991 and 1996, they developed and expanded the number of quality brood mares they held. The tribunal found that, when the taxpayer commenced business in 1996, they had five or six mares. This case is, therefore, again markedly different from the fact situation being considered.

23. In *Case X28* 90 ATC 276, the Administrative Appeals Tribunal also held that the taxpayers were carrying on a small-scale horse breeding and racing business. In that case, the business commenced with the purchase of two mares, one of which was already in foal. Breeding activities, therefore, commenced immediately. Once again, this case is very different to the facts being considered in this item.

Orchard and forestry cases

24. We have also considered whether case law on business commencement in the horticulture and forestry industries is analogous to business commencement in the bloodstock breeding industry. In orchard and forestry cases, the courts have found that the taxpayer is carrying on a business once they have planted trees even though the trees will not bear fruit or timber for years. This situation could be seen as analogous to purchasing a horse to use for breeding at some time in the future.

25. However, the Commissioner considers the orchard and forestry cases to be different. As noted above, the circumstances that are required for the commencement of a business vary from industry to industry. With orchards and forests, there will generally be a fixed intention to carry on the relevant business at the time the trees are planted. This is the case even though an unexpected event may occur before the trees mature. The contingencies Brewer J was concerned with in *Drummond* do not exist with orchards and forests; rather these cases are more consistent with Brewer J's finding that a racing business has commenced even though the colt had not yet been raced.

Conclusion – business commencement

26. In the Commissioner's view, a bloodstock breeding business will not commence with the purchase of a single horse that is not intended to be used for breeding for several years but will be raced in the interim to try to improve its breeding value. This is not because the bloodstock is intended to be raced for a significant period before breeding. The Commissioner accepts that racing bloodstock can be an integral part of a breeding business. However, for racing to be part of a breeding business, that breeding business must first have commenced. In the Commissioner's view, a person purchasing a horse in these circumstances can have only a contingent intention to breed. A contingent intention is insufficient for a breeding business to have commenced. Once a breeding business exists, s EC 46 allows racing activities to be treated as part of a breeding business (discussed further from [30] below).

27. This conclusion may mean that, at the time they purchase the first horse the person will not have absolute certainty as to the ultimate tax treatment of their investment because the treatment will depend on whether the person later commences a bloodstock breeding business. However, in the Commissioner's view, the tax treatment is clear. For an investment to be taxed as a bloodstock breeding business, a bloodstock breeding business must have commenced. At the time a person purchases a single horse (with a view to breeding from the horse but not for several years), no deduction will be available because the person is not carrying on a breeding business. This conclusion is consistent with the tax treatment of pre-commencement expenditure in any other type of business. It simply reflects the different nature of the contingencies relevant to the bloodstock industry compared with those in other industries.

28. If the person later commences a breeding business, as long as they hold the horse as part of the breeding business, they will be allowed a write-down in the year the breeding business commences. Where the breeding business commences because the person is using the first horse for breeding, s EC 39(1)(a) will apply (as, at that time, the person is using the horse for breeding in an existing breeding business). Where the

breeding business commences because the taxpayer acquires other horses, s EC 39(1)(c) will apply at the point that the breeding business commences. At that time the taxpayer is able to form the intention of using the horse for breeding in their (existing) breeding business.

29. In addition to concluding, on the facts before him, that a breeding business did not commence with the purchase of the first horse, Brewer J also concluded that s EC 39(1)(c) required a breeding business to already exist at the time the horse was purchased. This was Brewer J's primary reason for finding against the taxpayer. In the Commissioner's view this is another argument supporting the conclusion that a person in a situation covered by this QWBA is not entitled to a write-down for the purchase of their first horse. However, given the Commissioner's view that the person will be entitled to the write-down if, and when, a breeding business eventually commences, (see [28] above) the outcome under the two views will be the same. Under either view, the taxpayer will not be allowed a write-down before the commencement of a breeding business and will be allowed one after the business commences.

Income tax treatment of horse racing

30. Generally, bloodstock racing is outside the income tax net. No deductions are allowed for expenditure or loss incurred on (or in relation to) the racing of bloodstock (s DW 2(1)). Also, subject to specific exceptions, no deduction is allowed for expenditure or loss incurred in preparing bloodstock for racing (s DW 2(2) and (3)). Consistent with this, stake money and prize money for horse races are generally exempt income (s CW 60).

31. However, s EC 46(1)[1] treats the use of the bloodstock for racing as use in the course of the breeding business where a bloodstock owner:

- is in the business of breeding bloodstock for sale; and
- uses bloodstock for racing.

32. Therefore, once a taxpayer is carrying on a business of breeding bloodstock for sale, bloodstock that they use for racing may qualify for a reduction under s EC 39. In the Commissioner's view, s EC 46 does not require the raced bloodstock to be used as part of the breeding business (as long as it is able to be used for breeding in the future (see s EC 46(3)).

[1] This is subject to the exceptions in s EC 46(2) (the voluntary opt-out for bloodstock not used in the course of a business of breeding bloodstock for sale) and s EC 46(3) (the exception for non-breeding bloodstock).

33. If, at any time, the person no longer expects that they will be able to use the racing bloodstock for future breeding, s EC 46(3) will apply and the bloodstock will no longer be treated as being used in the person's bloodstock breeding business.
Section EC 47(1) will then apply to deem a disposal from the person's bloodstock breeding business of the bloodstock at market value.

Partners carrying on another bloodstock breeding business

34. The following paragraphs ([35] to [41]) apply only to partnerships.

35. If the partnership's breeding business has not yet commenced, it is possible that a partner who carries on their own bloodstock breeding business outside of the partnership may still be able to apply s EC 39 to write down their share of the horse.

36. Section HG 2 provides that partnerships are generally look-through entities meaning that the partners account for the activities of the partnership in their personal income tax returns. However, s HG 2(1) states that the rules in s HG 2(1)(a)-(d) apply to a partner "in their capacity of partner of a partnership". These words provide that a person who is a partner of a partnership may have liabilities and obligations under the Act in both their partner and non-partner capacities.

37. Section HG 2(1), among other things, treats a partner as holding their proportionate share of the partnership property and as carrying on the partnership's activity and having the partnership's status, intention and purpose – which would include whether the partnership was carrying on a business. For example, where a partnership is racing bloodstock, each partner will be treated as owning a proportionate share of a horse used for racing. It would also include the partnership's intention in acquiring the horse.

38. Therefore, in the Commissioner's view, s HG 2(1) treats a partnership interest as separate from a partner's other property. This means that property a partner owns through one partnership is treated separately from property that the partner owns in their own name or through another partnership. Therefore, an interest in a horse that one partnership owns cannot generally be treated as being used in a bloodstock breeding business that the partner or another partnership is carrying on. However, s EC 39(1)(c) can apply to the partner's share of the partnership bloodstock in some situations.

39. Where a partner in the partnership in question[2] is also carrying on a bloodstock breeding business outside of the partnership, s EC 39(1)(c) will apply if the partnership

[2] The partnership that is not carrying on a bloodstock breeding business.

bloodstock is bought with the intention of using it **for breeding in the partner's separate breeding business**. To establish this intention, the Commissioner would generally expect the partner to either:

- have a right to use the horse (for example, where the partnership purchased the horse to provide service rights to the partners and the partner in question intends to use those service rights in their separate breeding business). Usually this right would be reflected in the partnership agreement; or
- otherwise have the ability to control where the partnership bloodstock is used for breeding (for example, the partner in question has the power to use the horse in their other breeding business and intends to do so).

40. Section EC 39 can also be applied to the partner's proportionate share of any racing bloodstock that is treated as being part of their bloodstock breeding business under s EC 46 (as discussed at [32]). This treatment will be the same whether the bloodstock breeding business is being carried on:

- directly (in the partner's own name); or
- through the partner's investment in one or more other partnerships where at least one of those partnerships is carrying on a bloodstock breeding business.

41. The partner can apply this write-down only once. If the partnership later uses the bloodstock in a breeding business, the partner cannot obtain a second write-down. However, any partners that have not previously claimed the write-down will be entitled to claim it at this time.

Carrying on a breeding business through a joint venture

42. Some arrangements may involve a joint venture rather than a partnership. In that case s HG 2 does not apply. Instead, under s HG 1, each person in a joint venture must calculate their net income for a tax year taking into account their share of the joint income and deductions. Where a person purchases a horse as part of a joint venture, they will be allowed a deduction under s EC 39(1)(c) if the person individually, or the joint venture, intends to use the horse in an existing bloodstock breeding business. It is not necessary to have an agreement with the other joint venture members, or control over the horse, to claim a deduction, in contrast to the situation where a partnership owns the horse (as discussed at [39]). In other words, the joint venture investment is treated as part of the person's individual existing bloodstock breeding business.

Treatment where bloodstock sold before breeding

43. As set out above, a person will **not** be carrying on a bloodstock breeding business if they purchase a single horse with a view to using it for breeding in the future and, in the meantime, race it to try to improve its future breeding value. However, if the person was carrying on a bloodstock breeding business, an issue arises as to how to treat bloodstock that they sell (either before or after using that horse for breeding).

44. At the end of each income year, the closing value of the bloodstock[3] is income under s CH 1(3). The taxpayer is then allowed a deduction for that amount under s DB 49(3) in the following income year.

45. If a person sells bloodstock during an income year, the sale proceeds will be income. There will be no year-end add back in the year of sale for any carrying value for the bloodstock sold. This effectively means they are allowed a deduction for the remaining value of the bloodstock (that is, the cost price less any previous write-down).

Explanation – GST

46. We have also been asked whether a person would be carrying on a taxable activity from the time they purchase the first horse in a situation that has the following characteristics:

- The horse selected is a thoroughbred horse with a top pedigree and cost in excess of $200,000.
- The person engages an experienced manager with the necessary contacts to carry out actions needed to implement the breeding plan once the person reaches the phase of actually breeding the bloodstock.
- The person engages an experienced trainer with a history of training successful racehorses.
- The person implements (and follows) a detailed plan covering the purchase of the horse, care, training, racing and breeding, including the estimated timeframes and cost for each stage.

47. This scenario is different to the one considered in QB 17/04 "Goods and services tax — whether a racing syndicate can be a registered person" *Tax Information Bulletin* Vol 29, No 6 (July 2017); 36. QB 17/04 covers the situation where a person carries on horse racing as a stand-alone activity. In contrast, the specific scenario considered here

[3] The closing value is the cost price less the reduction for the year or the opening value less the reduction for the year as appropriate.

involves a person who has purchased a top pedigree horse with a view to breeding from it; they are undertaking the racing activity solely to improve potential breeding value.

48. To be a "taxable activity", the following three requirements must be satisfied:

- there is an activity;
- a person carries on the activity continuously or regularly; and
- the activity involves, or is intended to involve, supplies made to any other person for a consideration.

49. Even if no actual supplies have been made, the definition of "taxable activity" may still be satisfied if the person has an "intention" that the activity will involve the making of supplies. Any stated intention of making supplies must be tested objectively.

50. Section 6(2) of the Goods and Services Tax Act 1985 treats anything done in connection with the beginning or ending (including a premature ending) of a taxable activity as being carried out in the course or furtherance of the taxable activity. However, s 6(2) cannot create a taxable activity where one would otherwise not exist; rather, s 6(2) adds the commencement activity to the taxable activity.

51. Section 6(3) excludes from a taxable activity any activity that is carried on (or that if carried on by a natural person would be carried on) essentially as a private recreational pursuit or hobby.

52. The Goods and Services Tax Act 1985 does not distinguish between racing and breeding activities. For this reason, a taxable activity could involve either racing or breeding or both. Whether a taxpayer is carrying on a taxable activity is a question of fact that must be considered in each case, taking into account the legal arrangements they have entered into and whether the taxpayer's subsequent actions support the stated intention.

53. However, the Commissioner's view is that a person that meets the above criteria will most likely be carrying on a taxable activity from the time they acquire the bloodstock. In particular, on the specific facts set out at para [46], the person is unlikely to be subject to the private recreational pursuit or hobby exclusion (in the absence of any additional facts that demonstrate that).

54. Where the person is carrying on a taxable activity, input tax may be deducted for any goods or services used or available for use in making taxable supplies (that satisfy the requirements of s 20(3C) of the Goods and Services Tax Act 1985). Therefore, the person would be able to deduct input tax on the cost of the horse and ongoing

expenses in relation to the taxable activity as long as they meet legislative requirements (for example, holding the relevant tax invoice).

55. The person must also return GST on any supplies that they make (including race winnings and any bloodstock sold).

References

Legislative References

Goods and Services Tax Act 1985: ss 6 and 20(3C)

Income Tax Act 2007: ss CH 1(3), CW 60, DB 49(3), DW 2, EC 39 to EC 48, HG 1 and HG 2

Case References

Calkin v CIR (1984) 6 NZTC 61,781 (CA)

Case K40 (1988) 10 NZTC 343

Case X28 90 ATC 276

Drummond v CIR (2013) 26 NZTC 21-023; [2013] NZHC 1,768

Grieve v CIR (1984) 6 NZTC 61,682

MR & SL Block v FCT (2007) ATC 2,735

Other References

QB 17/04 "Goods and services tax — whether a racing syndicate can be a registered person" *Tax Information Bulletin* Vol 29, No 6 (July 2017); 36.
https://www.taxtechnical.ird.govt.nz/tib/volume-29---2017/tib-vol29-no6

"New legislation: Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019", Tax Information Bulletin Vol 31, No 4 (May 2019): 3.
https://www.taxtechnical.ird.govt.nz/tib/volume-31---2019/tib-vol31-no4

About this document

Questions We've Been Asked (QWBAs) are issued by the Tax Counsel Office. QWBAs answer specific tax questions we have been asked that may be of general interest to taxpayers.

While they set out the Commissioner's considered views, QWBAs are not binding on the Commissioner. However, taxpayers can generally rely on them in determining their tax affairs. See further Status of Commissioner's advice (*December 2012*). It is important to note that a general similarity between a taxpayer's circumstances and an example in a QWBA will not necessarily lead to the same tax result. Each case must be considered on its own facts.