

## **PRODUCT RULING - BR Prd 06/01**

This is a product ruling made under section 91F of the Tax Administration Act 1994.

### **Name of the Person who applied for the Ruling**

This Ruling has been applied for by LetterBox Channel Limited (“LBC”), a wholly owned subsidiary of New Zealand Post Limited.

### **Taxation Law**

All legislative references are to the Income Tax Act 2004 (“the ITA”) unless otherwise stated.

This Ruling applies in respect of sections DA 2(4), CE 1 ; definitions of “employment income”, “extra pay”, “income from employment”, “salary or wages”, and “withholding payment” in section OB 1 ; the definition of “source deduction payment” in section OB 2(1); the definition of “PAYE rules” in section OB 1 , regulation 4(1) and clause 5(d) of Part A of the Schedule to The Income Tax (Withholding Payments) Regulations 1979 (“the Regulations”); and section 6(3)(b) of the Goods and Services Tax Act 1985 (“The GST Act”).

### **The Arrangement to which this Ruling applies**

The Arrangement is the engagement of persons (“the Runners”) by Franchisees pursuant to a standard form contract for the delivery of newspapers, leaflets, brochures, catalogues, advertising material, samples and other such items to households and other premises throughout New Zealand. Further details of the Arrangement are set out in the paragraphs below.

1. LBC carries on the business of distributing newspapers, leaflets, brochures, catalogues, advertising material, samples and other such items to households and other premises throughout New Zealand.
2. LBC intends to implement a franchise model under which Franchisees will engage the Runners pursuant to a standard form contract, the conditions contained in which are required to be agreed to by the Runners when entering into the contact (“the Contract”).
3. The Contract requires Runners to deliver particular items within a specified period, to each house, flat or other premises located within a designated area, by placing one of

each item in each letter box (or other specified location). The Runners are paid specified rates per item delivered.

4. The Contract is attached to this Ruling as Appendix I.

5. The items delivered by the Runners pursuant to the Contract are not items the carrying of which requires LBC or the relevant Franchisee to be registered as a postal operator under the Postal Services Act 1998.

### **Condition stipulated by the Commissioner**

This Ruling is made subject to the following condition:

- The relationship between a Franchisee and the Runners is, and during the period of this Ruling will continue to be, entirely in accordance with the Contract affixed to this Ruling as Appendix I, and there are no other collateral contracts, agreements, terms or conditions, written or otherwise, relating to the engagement of the Runners.

### **How the Taxation Laws apply to the Arrangement**

Subject in all respects to the condition stated above, the Taxation Laws apply to the Arrangement as follows:

- For the purposes of the PAYE rules, any payment made to a Runner by a Franchisee pursuant to the Contract will not be “salary or wages” or “extra pay” within the meaning of those terms as defined in section OB 1. To the extent that any such payment is also not a “withholding payment” it will therefore not be a “source deduction payment” as defined in section OB 2(1), for the purposes of the PAYE rules.
- For the purposes of sections DA 2(4) and CE 1, any payment made to a Runner by a Franchisee pursuant to the Contract will not be “income from employment” or “employment income” as those terms are defined in section OB 1.
- For the purposes of the PAYE rules, any payment made to a Runner by a Franchisee pursuant to the Contract will not be a “withholding payment” as defined in section OB 1.
- For the purposes of the PAYE rules, any payment made to a Runner by a Franchisee pursuant to the Contract will not fall within the class of payment specified in clause 5(d) of Part A of the Schedule to the Regulations and will not be declared to be a “withholding payment” by regulation 4(1) of the Regulations.

- For the purposes of the GST Act, the provision of services by any Runner to a Franchisee under the Contract will not be excluded from the definition of “taxable activity” in section 6 of that Act by section 6(3)(b) of that Act.

### **The period or income year for which this Ruling applies**

This Ruling will apply for the period 1 January 2006 to 31 December 2011

This Ruling is signed on the 8 day of March 2006 by:

Maryanne Hansen  
Manager, Corporates

Appendix 1

# «Fr\_Co\_Name» FRANCHISEE LIMITED

## CONTRACT FOR SERVICES

### (Delivery of papers/circulars etc)

The delivery of circulars has become part of our Kiwi culture. As a delivery contractor you will provide a vital role in delivery of circular advertising, free newspapers and samples etc to households in your area. «Fr\_Co\_Name» believes that New Zealand's future depends on an entrepreneurial spirit. «Fr\_Co\_Name» looks forward to your contribution to this vision and sharing in the benefits of being in business with «Fr\_Co\_Name».

#### **PARTIES**

1. «Fr\_Co\_Name» Franchisee Limited, a duly incorporated company having its registered office at «Fr\_Co\_Regd\_Add», (“«Fr\_Co\_Name»”)
2. «Pers\_Name» of «PERS\_\_STREET», «PERS\_\_TOWN\_\_SUBURB», «PERS\_\_CITY» (“the Contractor” or “you”)

«Fr\_Co\_Name» is pleased to engage you as a delivery contractor from *[insert Go Live date]* on the terms and conditions set out in this contract.

#### **DELIVERIES**

You agree to:

- deliver all papers/circulars etc, received by you from «Fr\_Co\_Name» to the letterboxes on your Run, within the timeframes required by «Fr\_Co\_Name» and in accordance with the ‘important things to do’ and ‘important things not to do’ attached to this contract in **Schedule 1 (“the Deliveries”)**. (A map indicating the location of your Run is attached at **Schedule 3**);
- use reasonable care in making the Deliveries;

- ensure that any of your other commitments do not affect your obligations to «Fr\_Co\_Name» and
- comply with any applicable legislation including that related to tax and health and safety.

#### DELIVERY TIMEFRAMES

You agree to make the Deliveries within the timeframes communicated by «Fr\_Co\_Name» to meet the needs of Letterbox Channel's customers - exactly when you do the Deliveries within these timeframes is up to you.

#### DELIVERY EQUIPMENT

You are responsible for providing, at your expense, your own delivery equipment, such as bags, vehicles, footwear and wet weather gear. You are also responsible for ensuring that such equipment is well maintained, safe, and fit for its purpose.

#### PAYMENT

You will be paid for performing the Deliveries at the rates set out in the attached **Schedule 2**.

«Fr\_Co\_Name» will provide you with a draft monthly invoice for your contracted Deliveries. Upon receipt you are required to check the invoice details and advise «Fr\_Co\_Name» immediately of any errors in the information. Payment will be made by way of direct credit to your bank account within *[insert time period]*. An example of the form to be used for invoicing is at **Schedule 4**.

The fees specified in **Schedule 2** are the only amounts payable to you in respect of the Deliveries and are inclusive of all taxes (except GST) and other duties or levies.

#### TAXATION

You are solely responsible for your own Accident Compensation levies, income tax liabilities and GST liabilities or other income related payment or deductions that may be legislated from time to time.

You will register for GST with the Inland Revenue Department if required to do so. The current threshold for this is \$40,000. You should refer any questions about this directly to the IRD. If you are GST registered please include your GST number at **Schedule 6**.

If you include your IRD number at **Schedule 6**, «Fr\_Co\_Name» will withhold income tax from its payments to you at the rate of 15% and remit it to the IRD on your behalf, unless you elect otherwise.

#### TERMINATION OF CONTRACT

Either you or «Fr\_Co\_Name» may terminate this contract for any reason whatsoever by giving two weeks' notice in writing. However, if «Fr\_Co\_Name» believes that you are in serious breach of this contract then «Fr\_Co\_Name» may terminate this contract immediately without notice. 'Serious breach' includes, but is not limited to:

- dumping papers/circulars;
- incomplete or late Deliveries;
- engaging in conduct which is, or may be, likely to injure the reputation or interests of «Fr\_Co\_Name» or the advertisers whose material you are delivering, or bring, or potentially bring, «Fr\_Co\_Name» into disrepute.

#### STATUS OF CONTRACTOR

You are engaged by «Fr\_Co\_Name» under a contract for services, which means that you are an independent contractor. This contract does not therefore create an employment relationship between you and «Fr\_Co\_Name».

You are free to accept other engagements or work while you are engaged by «Fr\_Co\_Name». However you agree not to undertake other work which conflicts with, or may conflict with, the interests of «Fr\_Co\_Name».

#### NO LIABILITY

You will undertake the Deliveries at your own risk. This means that «Fr\_Co\_Name» will not be liable to you (or any other person) for any loss resulting from your deliberate actions, your negligence, or where you breach any term of this

Contract.

#### «Fr\_Co\_Name» CONTACT

«Fr\_Co\_Name» may appoint a supervisor to oversee your Run. Where this occurs the «Fr\_Co\_Name»'s supervisor will be your first point of call for all issues. If a supervisor has been engaged in your area their contact details will be included in **Schedule 2**.

#### DELIVERY OPTIONS

It is your responsibility to carry out the Deliveries as required under this contract. If you are sick or not able to personally carry out the Deliveries then you must arrange for others (such as a friend or family member) to do so. When you do this, you will be solely responsible for payment and all other obligations to others who assist you in this way. If you are unable to meet your contractual obligations to ensure the product is delivered within the Delivery window then you must notify «Fr\_Co\_Name» immediately.

#### FREQUENCY OF DELIVERIES

«Fr\_Co\_Name» does not guarantee any minimum amount of Deliveries as the volume of material available for distribution will vary depending on the time of year and needs of Letterbox Channel's customers – «Fr\_Co\_Name» will do its best to advise you of anticipated volumes as far in advance as possible.

#### COMPETITIONS

You and your immediate family members may be prevented from entering competitions advertised in material delivered by you, under the terms and conditions of those competitions.

#### ISSUES

If issues arise between «Fr\_Co\_Name» and you, both parties agree to raise and discuss issues in an open manner. If any outstanding issues are not able to be worked out between us, you agree to attend mediation in a further attempt to try and resolve them. If the issues are still unresolved after mediation has taken place, either you or «Fr\_Co\_Name» can refer them to the Disputes Tribunal for a binding decision to be made if the claim is for an amount less than \$12,000. If the matter remains unresolved, the matter can be referred to the District Court for a binding ruling. If the amount claimed is greater than \$12,000 then the matter can be referred to the District Court for a binding decision. The process to be followed is outlined further in **Schedule 5**.

#### HEALTH AND SAFETY

While «Fr\_Co\_Name» will make reasonable efforts to ensure that you operate safely, you are required to take all practical steps to ensure your own safety, and the safety of others and inform «Fr\_Co\_Name» immediately if any safety issues arise. You will be provided with a copy of «Fr\_Co\_Name»'s health and safety materials and are required to observe «Fr\_Co\_Name»'s policies and procedures at all times.

#### NOTICES

Every notice to be given under or in connection with this contract must be given in writing to the address of the other party as specified in **Schedule 3**.

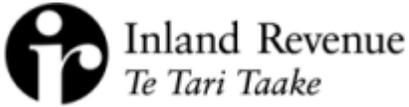
#### COMPLETE AGREEMENT

Please sign the second copy of this contract, completing the details in **Schedule 6** and return in the enclosed reply paid envelope.

This contract is the full and entire agreement between you and «Fr\_Co\_Name» and supersedes all previous written and oral agreements, representations and contracts between you and «Fr\_Co\_Name».

**SIGNED** for and on behalf of «Fr\_Co\_Name» Franchisee Limited

by:



name of authorised signatory

position

date

«Pers\_Name» by: \_\_\_\_\_

\_\_\_\_\_

Signature of Witness

Name of Witness

\_\_\_\_\_

Occupation of Witness

\_\_\_\_\_

City/town of residence]

Signature of Contractor

**SIGNATURE OF PARENT OR GUARDIAN:**

Where the Delivery Contractor is under the age of 15 years, this contract must be counter-signed by a parent or guardian. In signing this contract in the place indicated below, the parent or guardian declares that he or she understands and has explained the terms of this contract to the Delivery Contractor.

\_\_\_\_\_ Name of Parent or Guardian \_\_\_\_\_

Signature of Parent or Guardian

Date:

**SCHEDULE 1**

**CONTRACTED SERVICES**

«SUPERVISOR\_OR\_FRANCHISEE\_CONTACT\_NAME»





Inland Revenue  
*Te Tari Taake*

DO deliver to every letterbox at every house or flat in the area given to you. Read the map or street list given to you carefully.

Put the circulars RIGHT INSIDE each letterbox. This stops the circulars getting wet, or being blown away.

DO start and finish as instructed. Your Franchisee/supervisor will inform you of the delivery windows for each circular. Deliveries must be made within these timeframes, however exactly when you deliver is up to you. From time to time you will receive instructions for a special delivery involving tighter than normal timeframes. DO ask your Franchisee/supervisor for more papers when new houses or flats appear in your area. If you run short of circulars you MUST contact your Franchisee/supervisor and advise them.

DO notify your Franchisee/supervisor if you are unable to complete your delivery.

DO comply with directions given by your Franchisee/Supervisor about particular deliveries.

DO contact your Franchisee/supervisor for any questions or problems you have about deliveries, or anything else at all that you are not sure about. Your Franchisee is there to help you. DO discuss as soon as possible with your franchisee/supervisor, any bad encounters with dogs, or any interference with material after you have delivered it. You will be asked to complete an incident/accident report.

DON'T use the newspaper tube unless specifically instructed to do so. Never leave material on top of the letterbox, dropped on the lawn or in the hedge.

DON'T deliver to letter boxes bearing "NO CIRCULARS" type signs unless specifically instructed to do so by your Franchisee/supervisor. If unsure, please ask them.

DON'T deliver to letter boxes that are obviously not being cleared.

DON'T fold one circular inside another. Each item must be kept separate. It is OK to pre-fold and "stack" the items on top of each other but NOT inside each other.

DON'T throw away excess circulars. If you are getting too many, there must be a reason – talk to your Franchisee. If you run short of circulars, call them – they normally have spares. ALL SURPLUS circulars must be returned to your Franchisee/supervisor for disposal.

DON'T deliver after dark and please be careful crossing roads. If you have someone annoying you or any concerns about someone's behaviour during your delivery round, please discuss it immediately with your parents or the local police. Tell your Franchisee/supervisor next. Only continue with your delivery if you feel it is safe to do so.

DON'T DUMP papers or circulars. If you do, your contract will be terminated without notice and you may be required to pay the cost of cleaning up as well as the cost of the circulars.





## SCHEDULE 2

### DELIVERY CONTRACTOR FEES FOR DELIVERY SERVICES

Each of the Contractor's fees for making the Deliveries for «Fr\_Co\_Name» will be calculated as follows:

*[Insert 1 and/or 2 if applicable]*

#### 1. EXISTING BUSINESS

These are the rates applying to a Delivery Contractor previously employed by Letterbox Channel, for existing business, which is any business which had transacted with Letterbox Channel in the 12 months preceding the franchisee becoming operational and in respect of which the Delivery Contractor made deliveries in that 12 month period. These rates apply from commencement of this contract until 31 March 2008, after which time they expire and new rates will be set by your Franchisee by notice to you.

*[Insert basis on which fees will be calculated]*

#### 2. NEW BUSINESS

For all new business, which does not meet the criteria described above, the following delivery rates will be applied from

the commencement of this contract.

*[Insert basis on which fees will be calculated]*

### 3. NOTICES

All notices will be served on the parties at the following addresses:

«Fr\_Co\_Name» Franchisee Limited:

*[Name]* Phone: [ ]

*[full address]* Fax: [ ]

The Delivery Contractor:

*[Insert name]* Phone: [ ]

*[full address]* Fax: [ ]

### 4. «FR\_CO\_NAME» CONTACT

«SUPERVISOR\_OR\_FRANCHISEE\_CONTACT\_NAME»

Contact Number: «SUPERVISOR\_OR\_FRANCHISEE\_CONTACT\_PHONE»

## SCHEDULE 3

### MAP OF CONTRACTED RUN

# Geographical Map Of Contracted Run

## SCHEDULE 4

### EXAMPLE

### DELIVERY CONTRACTOR TAX INVOICE

Delivery Contractor's Name Page : x

Delivery Contractor's physical address P/E Date : dd/mm/yyyy

Invoice No : x



IRD No : xxxxxxxx  
Contractor No : xxxxx  
Franchise : «Fr\_Co\_Name» Franchise

Run No Job No Job Name Date Qty Job Rate Total Due

TOTAL GROSS TAXABLE AMOUNT (incl GST if any) \$ 00.00 000.00 YTD

TAX WITHHELD @ 15% \$ YTD

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TOTAL NET AMOUNT \$  
=====

Please check your invoice

**SCHEDULE 5**

**Flowchart for handling disputes:**

A dispute arises between the parties.

Resolved?  
**YES**

or  
**NO**

No further  
action

Dispute is documented and the parties meet to consider.



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Resolved?  
YES

or  
NO

No further  
action

Mediation Process

Resolved?  
YES

or  
NO

No further  
action

Claim < \$12,000

Disputes  
Tribunal

OR

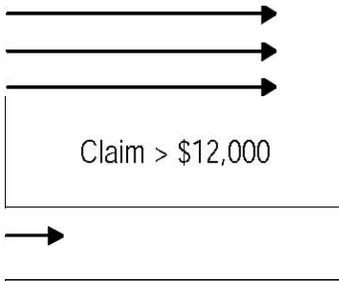
Resolved?  
YES  
or NO

Claim > \$12,000

District Court

Binding  
decision

No further action



**SCHEDULE 6**



**1. DELIVERY CONTRACTOR PERSONAL DETAILS**

Surname:

.....

First Names:

.....

Address:

.....

.....

.....

Telephone Number:

Area Code ( ) Number.....

If age is under 16 years of age, please give date of birth: //  
(dd) (mm) (year)

**2. DELIVERY CONTRACTOR BANK ACCOUNT DETAILS**

[please attach a bank deposit slip or fill out the section below]

Name on Account:

.....

