

CASINO CONTROL ACT 1990 - AMENDMENTS TO THE GOODS AND SERVICES TAX ACT 1985

SUMMARY

This item explains the amendments contained in the Casino Control Act 1990 which amend the Goods and Services Tax Act 1985 to provide the GST treatment for gaming conducted within a casino.

INTRODUCTION

The Casino Control Act 1990 provides for the licensing, supervision, and control of casinos. It also contains amendments to the Goods and Services Tax Act 1985 to provide the GST treatment of gaming activities conducted within a casino.

This treatment reflects the recommendations of the Committee of Enquiry into the Establishment of Casinos in NZ in that GST will apply to the casino's "win". The treatment is consistent with that afforded to other forms of gaming such as games of chance and lotteries conducted in terms of the Gaming and Lotteries Act 1977.

These amendments to the GST Act will have no application until casinos become operational and commence to make supplies in respect of their gaming activities. The Casino Control Act comes into force on 1 July 1990.

GST AMENDMENTS

Section 5 of the GST Act, which deals with the meaning of supply, is amended by the insertion of two new subsections. The amendment deems a supply of services to occur where a person pays money to purchase a chip or otherwise to participate in a game played or conducted in a casino. This deemed supply is made by the holder of the casino licence.

Section 9 of the GST Act, which sets out the time of supply rules, is amended by the insertion of a new time of supply rule in respect of the deemed supply described above. The new time of supply rule deems the supply to occur at the time a "casino count" occurs. A "casino count" is a defined term and means a count of money or money's worth paid for the right to participate in gaming. Such counts will occur on a regular basis in terms of the conditions that will be attached to a casino licence.

Section 10 of the GST Act, which determines the value of a supply, is amended by the insertion of two new subsections. The amendment deems the value of the supply to be the amount of money paid by persons to purchase chips or otherwise to participate in games less the amount of money paid out in winnings by the casino in respect of those games.

The amount paid to participate in a game is GST inclusive.

These amendments only provide the GST treatment for gaming activities played or conducted within a casino. In respect of other goods and services supplied by a casino the normal GST provisions of the GST Act will apply.

Reference: LA GST 1990 Leg. Vol.

TRANSFER OF DUTIES WORK FROM WELLINGTON TO PALMERSTON NORTH INLAND REVENUE

From 1 April 1990, the Stamp, Estate and Gift Duty work which is presently handled by the Wellington District Office of Inland Revenue will be transferred to the Palmerston North Office.

This change will affect all Taxation Districts in the Central Region, which are:

Napier	New Plymouth
Gisborne	Palmerston North
Wanganui	Masterton
Lower Hutt	Porirua
Wellington	

The procedures for sending documents and returns to Palmerston North under the document exchange system will be the same as those which currently apply for the Wellington office.

The address to which documents should be sent is:

District Commissioner
Inland Revenue Department
PO Box 1147
PALMERSTON NORTH

GST - SCOPE OF THE TERM "RESIDENT"

SUMMARY

This item clarifies the scope of the term "resident" for the purposes of the Goods and Services Tax Act 1985.

BACKGROUND

It has become apparent that there is some confusion as to the scope of the proviso to the definition of the term "resident" as defined in the Goods and Services Tax Act 1985.

The confusion relates to whether a person with a fixed or permanent place in New Zealand is resident for the purposes of all activities carried on in New Zealand,

or whether they are resident with respect to only those activities the fixed or permanent place relates to.

RULING

Where a person is not a resident in New Zealand, in terms of section 241 of the Income Tax Act 1976, the proviso to the definition of the term "resident" as contained in the Goods and Services Tax Act 1985 provides that that person is a resident, for the purposes of the GST Act, only with respect to those activities related to a fixed or permanent place in New Zealand.

EXAMPLE

An overseas construction company is not resident in New Zealand in terms of section 241 of the Income Tax Act 1976 because their place of incorporation, centre of management, Head Office, and control by Directors is not in New Zealand. The construction company has two contracts to perform in New Zealand. The first is managed from a fixed or permanent place in New Zealand and the second contract is not.

Since the second contract is managed from overseas with no connection or relation to a fixed or permanent establishment in New Zealand the proviso to the definition of the term "resident" provides that the overseas construction company is a resident with respect to the first contract but not with respect to the second.

LOCAL AUTHORITY ELECTED AND APPOINTED MEMBERS' REMUNERATION— PART EXEMPTION FROM INCOME TAX

SUMMARY

This item discusses the taxation of the remuneration paid to members of local authorities with effect from 1 April 1990.

BACKGROUND

For many years the Department has allowed a portion of the remuneration of elected members of local authorities to be exempt from income tax. This was a carry over from the days when the remuneration paid to Mayors, Chairmen and councillors of local bodies was no more than an honorarium. It was recognised at that time that the fees received no more than defrayed the expenditure that the elected members incurred in carrying out the duties of the office held.

With the recent revision of local government and the increase in remuneration of elected members there is no longer any justification for treating part of that

remuneration as being exempt from tax. The elected members now receive remuneration that more closely reflects the time and effort the positions require. They are also entitled to receive reimbursement for any expenditure they incur in carrying out their duties, just like any other salary and wage earning employee.

Local government reform took effect from 1 November 1989 with changes in the format of local authorities and changes in the remuneration packages for most elected members.

RULING

As from 1 April 1990 the remuneration received by elected members will be subject to PAYE tax in full. The income received by the members are withholding payments in terms of the Income Tax (Withholding Payments) Regulations 1979. The current rate of tax deductions for payments to local authority elected members is 33 cents in the dollar. This rate will be the most appropriate rate for the majority of elected members who have income from other sources. Where the remuneration from the local authority is the only income, or any other income is relatively small, the tax deduction rate of 33 cents may be too high. In these cases members can obtain a special tax code certificate, on application to their local Inland Revenue office, to reduce the rate of tax deductions.

The existing exemptions will apply up to 31 March 1990. Where an elected member has changed from one authority to another because of the 1 November restructuring, the member will only be entitled to the exemption applicable to his or her new position as from that date.

The remuneration of appointed members of local authorities is also taxable in full.

H.O. Ref 10.A.8.3.

RECENT DETERMINATIONS ISSUED BY THE COMMISSIONER

Four determinations were issued by the Commissioner on the 9th of February 1990. Below is a short explanation of each. The full determinations are printed in Appendix A to this TIB item.

Determination G16A:

This determination differs from Determination G16 in that the interest rate used to determine the discounted value is determined on the supply date rather than on the date of entry into the contract, which is more difficult to ascertain. This determination also extends

G16 by requiring the discounted value to be used to calculate income derived or expenditure incurred.

Determination G17A:

This determination has essentially the same changes as were made to Determination G16, except that it relates to deferred property settlements rather than trade credits.

Determination G20:

This is the foreign currency version of Determination G16A. This determination prescribes the discounted value of amounts payable under a trade credit where amounts payable are expressed in a base currency other than New Zealand dollars.

Determination G21:

This is the foreign currency version of Determination G17A. This determination prescribes the discounted value of amounts payable under a deferred property settlement where the amounts payable are expressed in a base currency other than New Zealand dollars.

With the changes made to Determinations G16 and G17 the approach taken in all the above determinations is consistent.

GST & SHIPOWNERS' AGENTS

This item provides -

- (a) A brief discussion of the implications of section 60 of the GST Act ("Agents and auctioneers") for shipowners' agents, and
- (b) An explanation of the GST treatment of fees charged to overseas shipowners by shipowners' agents in New Zealand.

A full explanation of these items is contained in Appendix B to this Bulletin.

LAND TAX

In Appendix C to this TIB the land tax provisions and how they work are outlined. Included are the amendments made by the Land Tax Amendment Act 1989 which included the changes announced by the Minister of Finance's 1989 Budget and also the Land Tax Amendment Act (No.2) 1989 which requires taxpayers to pay land tax as calculated in their land tax return and to pay that tax without the Commissioner having to first issue an assessment.

Issues covered are:

- What is Land Tax?
- What is the Land Tax Year?

- What is the Land Value?
- Who is Liable for Land Tax?
- Joint Ownership
- Companies/Shareholders
- Leasehold Land
- Absentee Owners
- Trustees Liability
- Maori Land
- Buyer or Seller of Land - Who is Liable?
- Mortgagee in Possession
- Exemptions from Land Tax
- Rate of Land Tax
- Returns and Payments
- Late Payment
- Non-Furnishing of Return
- Income Tax Deductibility

THE ACCRUAL TAX ACCOUNTING REGIME AND GOVERNMENT STOCK TRANSACTIONS

Appendix D of this bulletin deals with the calculation of income and expenditure in respect of Government stock under the Accrual Tax Accounting Regime.

THE TAXATION OF EXCHANGE TRADED OPTIONS CONTRACTS

INTRODUCTION

This TIB item sets out the Department's policy on the tax treatment of exchange traded options, and in particular how Determination G7B: New Zealand Futures and Options Markets, Determination G18: International Futures and Option Markets, and Determination G19: Exchange Traded Option Contracts, apply.

The policy set out in this TIB item relates to -

- (a) New Zealand residents; and
- (b) The fixed establishment in New Zealand of any non-resident.

The full text of this policy statement is contained in Appendix E to this Bulletin.

NOTIFICATION TO EMPLOYERS: FBT PRESCRIBED RATE OF INTEREST FOR QUARTER COMMENCING 1 APRIL 1990

The prescribed rate of interest used to calculate the fringe benefit value of low interest employment-related loans has been retained at 14.8 percent for the quarter commencing 1 April 1990.

A brief press statement was released by the Office of the Minister of Revenue on 13 February confirming the rate.

INCOME TAX (WITHHOLDING PAYMENTS) REGULATIONS 1979

The No. 8 Amendment to The Income Tax (Withholding Payments) Regulations 1979 will become operative from the 22nd of March 1990.

The Amendment is to Regulation 2 of the principal Regulations and provides for the insertion, after paragraph (a) of the definition of the term "contract activity", the following paragraph:

"(ab) The performing or rendering of any work or contract service in New Zealand, whether or not that work or contract service is carried on or carried out in connection with, or in relation to, any contract project:"

The Amendment, which is effective from the 22nd of March 1990, thus expands the definition of "Specified Contract Activities" in the Regulations so as to expressly bring within the scope of the Regulations the performance or rendering in New Zealand of any work or any service of any kind, by a non-resident contractor.

The Amendment thus removes any doubt as to whether non-resident consultancy fees, in particular, are within the scope of the Regulations.

INDEX TO PUBLIC INFORMATION BULLETIN

Enclosed with the TIB is an index to the Public Information Bulletin.

An index to the Tax Information Bulletin will be included with TIB No. 10.

DUE DATES REMINDER

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|----------|---|
| April 1 | GST Return and payment for period ended 28 February 1990 due. |
| April 7 | First instalment of 1991 Provisional Tax due for taxpayers with December balance dates. |
| | Second instalment of 1990 Provisional Tax due for taxpayers with August balance dates. |
| | Third instalment of 1990 Provisional Tax due for taxpayers with April balance dates. |
| April 14 | Interest PAYE deducted during March 1990 due for monthly payers. |
| | Interest PAYE deducted from 1 October 1989 to 31 March 1990 due for six-monthly payers. |
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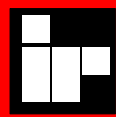
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*TAX INFORMATION
BULLETIN*



INLAND
REVENUE

TE TARI TAAKE

THIS IS AN INLAND REVENUE DEPARTMENT SERVICE
TO PEOPLE WITH AN INTEREST IN THE TECHNICAL ASPECTS
OF TAXATION IN NEW ZEALAND.