

Determination E6: Persons not required to comply with Section 104A of the Income Tax Act 1976

1. Reference

This determination is made pursuant to section 104A(5) of the Income Tax Act 1976. It determines the extent to which persons are not required to comply with section 104A of the Income Tax Act 1976, in respect of the income year commencing on the 1st day of April 1990.

2. Interpretation

In this determination, unless the context otherwise requires-

Expressions used have the same meanings as in section 2 and section 104A of the Income Tax Act 1976:

Every reference to an income year shall, where a person furnishes a return of income under section 15 of the Income Tax Act 1976 for an accounting year ending with a day other than the 31st day of March, be deemed to be a reference to the accounting year corresponding with that income year and, in every such case, this determination shall, with necessary modifications, apply accordingly.

“Audit fees” in relation to a person and an income year means fees payable by the person to a qualified person in relation to the preparation of a report relating to any financial statement relating to the person and the income year for financial reporting purposes:

“Balance date”, in relation to a person and an income year, means the last day of the person’s income year:

“Expiry date”, in relation to any expenditure incurred in an income year, means -

(a) Where the expenditure relates to payment for services, the date by which it is reasonably expected that performance of the service will be completed:

(b) Where the expenditure relates to payment for, or in relation to, a chose in action -

(i) For a definite period, the last day of that period:

(ii) For an indefinite period, the day on which it is reasonably expected that period will end:

“Financial statement” in relation to a person means -

(a) A balance sheet;

(b) A profit and loss account;

(c) Group accounts;

and includes any supporting note or statement that accompanies the financial statement; but does not include:

(d) Any statement of production quality or production volume;

(e) Any statement prepared in relation to the exercise of any rights in respect of which royalties are payable:

“Mandatory accounting costs” in relation to a person and an income year means accrual expenditure incurred by the person for the purpose of meeting any requirement to provide accounting, statistical, operational, sociological or other information in respect of -

(a) Events occurring in that income year;

(b) Any state of affairs in that income year -

where that information is required to be provided by operation of law:

“Periodic charges” means expenditure regularly incurred on a rated annual or more frequent basis, and includes local authority levies (other than rates), licences, and registrations:

“Qualified person” means -

- (a) A person qualified for appointment as an auditor of a company in terms of section 165 of the Companies Act 1955; or
- (b) A person similarly qualified, accordingly to the law in any other jurisdiction, for appointment as an auditor of a body corporate.

the subsequent expiry date of the expenditure does not exceed the number of months, if any, specified in relation to that expenditure in column (3) of the schedule hereto; and

- (d) In relation to expenditure on goods of any of the kinds specified in categories (d) and (k) of the schedule hereto, the goods are in the possession of the person at balance date:

3. Determination

Any person who incurs expenditure that is deductible in the income year commencing on the 1st day of April 1990 shall not be required to comply with section 104A of the Income Tax Act 1976 in respect of the expenditure and the income year where-

- (a) The expenditure is of a kind described in column (1) of the schedule hereto; and
- (b) The sum of all of the amounts of unexpired portion of the kind of expenditure does not exceed the amount, if any, specified in relation to that expenditure in column (2) of the schedule hereto; and
- (c) The length of time between balance date and

Provided that this determination shall not apply to any expenditure to the extent that deduction of the expenditure has been deferred to a subsequent income year for financial reporting purposes.

Provided also that, for the purposes of this determination, any expenditure taken into account in calculating the assessable income of a partnership for the purposes of section 10 of the Income Tax Act 1976, or that should properly be so taken into account, shall be treated as expenditure incurred by that partnership and by no other person.

This determination is signed by me on the 14th day of November in the year 1990.

R D Adair
Deputy Commissioner of Inland Revenue

SCHEDULE

Description of Expenditure	Total Amounts of Unexpired Portion Column (2)	Number of months Column (3)
(a) Rental for the lease of land or buildings relating to a period end more than one month after balance date.	\$23,000	Six
(b) Rental for the lease of land or buildings other than such rental dealt with elsewhere in this determination.		One
(c) Rental for the lease or bailment of livestock or bloodstock.	\$23,000	Six
(d) Purchase of consumable aids.	\$58,000	
(e) Insurance premiums under an insurance contract where the total amount of such expenditure incurred in the income year in respect of the contract does not exceed \$12,000.		Twelve
(f) Payment in respect of equipment service contracts or warranties where the consideration for the contract or warranty forms an inseparable and indeterminate part of the consideration for the asset or assets to which it relates.		

(g) Payment in respect of a contract for the service or maintenance of plant, equipment or machinery where the total amount of such expenditure incurred in the income year in respect of the contract does not exceed \$23,000.		Three
(h) Payment for the use or maintenance of telephone and other communication equipment.		Two
(i) Services, other than those dealt with elsewhere in this determination.	\$12,000	Six
(j) Periodic charges, other than those dealt with elsewhere in this determination.	\$12,000	Twelve
(k) Purchase of stationery.		
(l) Subscriptions for any newspaper, journal, or other periodical including the maintenance or annotation of any documentary information service.		
(m) Motor vehicle registration and drivers' licence fees.		
(n) Subscriptions, or other fees (but excluding any payment in respect of a franchise agreement) entitling membership of any trade, professional, or other association where the amount of such expenditure incurred in the income year in respect of the association does not exceed \$6,000.		Twelve
(o) Postal and courier services, including such expenditure for franking, private post boxes and private post bags, business reply post and freepost, and including expenditure evidenced by the possession of postal stamps.		
(p) Rates made and levied under Part IX of the Local Government Act 1974 to the extent of the amount invoiced on or before balance date.		
(q) Advance bookings for travel and hotel or motel accommodation.	\$12,000	Six
(r) Advertising.	\$12,000	Six
(s) Road User Charges.		
(t) Audit fees.		
(u) Mandatory accounting costs.		
(v) Accrual expenditure incurred in respect of the income year (or any prior income year) that is deductible under section 165 of the Income Tax Act 1976.		