
Tax Information Bulletin

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Contents

Use of IRD numbers when business sold.....	2
Dividends paid on Fixed Rate Shares issued before 30 July 1991	2
Students' loan obligations - IRD pamphlet	2
Non-resident sports people and entertainers.....	3
Special assistance paid to farmers in critical financial hardship	4
Determination E8: Persons not required to comply with section 104A of the Income Tax Act 1976	4
Inland Revenue achieves reduction in overdue tax	4
Due dates reminder	5

Use of IRD Numbers when Business sold

If you are taking over part of an existing company, please make sure you get a new IRD number for it, rather than continuing to use the existing number. You can do this by applying to your local Inland Revenue office.

During recent maintenance of Inland Revenue's database, we have found several cases where an IRD number belonging to one company is being used by another company. Usually, this comes about when a branch or division of a company is

sold, and the new owner continues to use the old IRD number.

This often results in payments for income tax, GST, Fringe Benefit Tax and/or AC premiums going to the wrong account, which causes incorrect assessments. It then takes a lot of work for the companies (and Inland Revenue) to sort out the situation, and get both accounts corrected.

Your attention to this will help to improve the service that we give to you.

Dividends paid on Fixed Rate Shares issued before 30 July 1991

Section 63(2E) of the Income Tax Act provides that a dividend is exempt where it is paid before 1 April 1994 on fixed rate shares which were acquired before 8.00 pm on 30 July 1991.

Such a dividend is exempt provided that no term of the share is altered at any time from 30 July 1991 to the date the dividend is paid (section 63(2E)(e)).

Inland Revenue has been asked whether the termination of a contract in the circumstances outlined below constitutes an alteration of the contract that would prevent the exemption applying.

A company has entered into a preference share transaction. Under the contract for acquisition of the shares, the shares are fixed rate, the rate is not reviewable and there are no circumstances in which the term of the contract can be altered. The contract terminates at some point after 1 April 1994.

In view of the taxation of dividends on the shares from 1 April 1994, the parties enter into an agreement now to terminate the contract on a certain date, such as a dividend payment date, before 1 April 1994 and before the contract expires. Will a dividend be exempt where it is paid prior to termination, but subsequent to the agreement to terminate the contract?

The Commissioner considers that an agreement to terminate the contract in the above circumstances does not in itself constitute an alteration of a term of the contract for the purposes of section 63(2E)(e). The 1991 Budget measures relating to pre-Budget fixed rate shares anticipated that such arrangements may be terminated before 1 April 1994. It was not intended that an agreement to terminate would alter the exempt status of dividends paid on these shares prior to termination.

Students' Loan Obligations - IRD Pamphlet

Inland Revenue has recently distributed to students a pamphlet explaining their repayment obligations.

Although the legislation which enables IRD to collect loan repayments through PAYE is not yet passed, essential information had to be published before students leave their campuses for the year. Borrowers need to know about their obligations now, so they can meet them when the legislation is in place next year.

Many borrowers are unaware of key issues, such as how Inland Revenue will collect their repayments when they get a job, and what will happen

to their loans if they go overseas. They will need to know the answers to these questions before they finish their studies, and mailing the pamphlet to all borrowers is the most direct way of telling them.

Ministry of Education figures show that 43,554 loan contracts have been processed up to the end of September, with a total amount of \$139,031,385. This averages out to \$3,192 per student.

You can get a copy of the pamphlet from any Student Loan Office, from Student Associations on campus, or from any Inland Revenue district office. We will produce a more detailed booklet as soon as the legislation is passed.

Non-Resident Sports People and Entertainers

Application of Section 61(17), Income Tax Act 1976

Introduction

We have been asked to state our policy on the exemption from New Zealand income tax of visiting overseas entertainers and sports people. This item sets out Inland Revenue's interpretation of section 61(17) of the Income Tax Act 1976.

Background

Under Section 61(17), any income that a non-resident entertainer derives from taking part in any of the following activities is exempt from New Zealand income tax:

- a **cultural programme** of (or wholly or partly sponsored by) any overseas government or the New Zealand Government
- a programme of an **overseas** foundation, trust, or other organisation that exists (either wholly or partly) to promote any cultural activity, and that is not carried on for the private pecuniary profit of any proprietor, member, or shareholder
- any game or sport, where the participants are the official representatives of an association, league, union, or other body that administers the game or sport in an overseas country.

Section 61(17) was inserted into the Land and Income Tax Act 1954 (now the Income Tax Act 1976) by section (5) of the Land and Income Tax Amendment Act (No. 3) 1975. The introduction followed an exemption in the Income Tax (Withholding Payments) Regulations 1975, which specified that payments to certain overseas artistes would not attract a new withholding tax on payments to entertainers and sports people.

Comment

The legislation was intended to exempt from New Zealand income tax any fees or remuneration paid to visitors to this country who were (either singularly or as a group or team) official representatives of their home government or the body organising the game or sport in the home country. Mostly these visitors were employees of that overseas government or organisation.

Comment made at the time the legislation was introduced gave the following examples of types of organisations whose participants would qualify for the exemption.

- Chinese acrobatic teams, Russian circus or ballet
- A symphony orchestra or ballet supported by public funds or subscriptions in the overseas country
- An Australian Rugby League team - but if an Australian club team visited New Zealand, its members were not exempt from tax under this section.

Clearly the intention when the legislation was introduced was that the exemption would apply to national (government) sponsored activities that had some "cultural" significance, and to international representative sports teams.

There has been some confusion over the interpretation of the phrase **cultural programme** in paragraph (a) of section 61(17), as the term is not defined. Considering the intention of the section on its introduction and the examples given at that time, an artiste would need to be more or less an employee of, or paid by, his/her government or a government funded agency at the time of the visit to qualify for an exemption.

The fact that an overseas organisation has some government input or sponsorship does not necessarily qualify the visiting entertainer for exemption. Each case must be considered on its own merits. Inland Revenue's decision in each instance will be influenced by the original intention of the legislation as mentioned earlier.

Where the event is organised in New Zealand by a New Zealand organisation there would need to be some Government involvement or sponsorship as well as a significant cultural element to the activities that make up the programme. The Wellington Festival of the Arts is an example of the latter. All overseas performers attending the Festival as invited guests of the organising committee would be exempt from New Zealand income tax under paragraph (a).

An overseas entertainer would not be allowed an exemption if s/he was not employed by an overseas government or agency, and the local event was not an overseas or New Zealand Government sponsored **cultural programme**.

Paragraph (b) of the section exempts payments made where the visit is organised by an **overseas** non-profit foundation, trust, or organisation formed to promote cultural activities. Exemption

under this paragraph could include, national, state and civic organisations, such as orchestras, choirs and similar public funded cultural activities. An overseas artiste visiting New Zealand at the invitation of a local foundation, trust etc. would not qualify under this paragraph.

Sportspersons are covered by paragraph (c). To qualify, the athletes must be official representatives of the governing body of the sport in their home country, state or city. A sportsperson may qualify for exemption on one visit but not on another. The example given earlier of a rugby league player visiting New Zealand as an Australian representative on one visit would be exempt. The same player visiting with a club team would fail to qualify as exempt.

NOTE: The above rules may be modified by any double tax agreements any individual country may have with New Zealand.

Tax records of non-resident entertainers and sportspersons are handled by the Non-resident Entertainers section in our Auckland district office. If you are enquiring about this class of taxpayer, please write to:

The District Commissioner
Inland Revenue Department
P O Box 1498
AUCKLAND

and mark your letter for the attention of the Non-resident Entertainers section.

Reference: H.O.10.V.4.2

Special Assistance paid to Farmers in Critical Financial Hardship

The Department of Social Welfare is paying special assistance to farmers who are under critical financial hardship, such as kiwifruit growers and farmers affected by the South Island snowstorms.

Section 61(35) of the Income Tax Act exempts from income tax such special assistance paid by Social Welfare. Farmers who receive such assistance from

Social Welfare should therefore not treat it as income for tax purposes.

These payments from Social Welfare are not the same as the Adverse Event Family Income Support payments which the Ministry of Agriculture and Fisheries made from October 1988 to March 1991.

Determination E8: Persons Not Required To Comply With Section 104A of the Income Tax Act 1976

This determination sets out the circumstances under which people do not have to make accrual adjustments, as required by section 104A of the Income Tax Act 1976, to the expenditure deductible under section 104. It specifies the kind of expenditure, amount and maximum period from balance date where accrual adjustments are not

required. It differs from E7 by applying to the income year commencing 1 April 1992 and updating the rating reference.

The determination was made pursuant to section 104A(5) of the Act, and the Commissioner signed it on 7 October 1992. The full determination is printed in the appendix to this Tax Information Bulletin.

Inland Revenue achieves reduction in Overdue Tax

The amount of overdue tax owed to Inland Revenue has dropped by nearly \$140 million in the past year. The collectible debt at 30 June 1992 was \$1,089.6 million, compared with \$1,228.4 million at the same time last year. Over July and August, this figure has been reduced by a further \$40 million.

Inland Revenue's new debt systems have helped us to achieve this significant reduction in debt owed. We are now able to chase people up a lot faster, since our system automatically identifies debtors and issues reminder notices. A reorganisa-

tion of Inland Revenue's Debt Management units will help us to continue making a significant inroad on the debt.

Inland Revenue's job is to make sure that everyone pays their fair share of tax. People are becoming more aware of their obligation to pay their tax on time, but we will continue to follow up those who don't.

If anyone is having problems meeting their tax liability, they should get in touch with the Debt Management staff at their local district office.

Due Dates Reminder

October

- 30 GST return and payment for period ended 30 September 1992 due.

November

- 5 PAYE deductions and IR 66ES for last 16 days of October 1992 due - "large" employers only.
- 7 First instalment of 1993 Provisional Tax due for taxpayers with July balance dates.
- Second instalment of 1993 Provisional Tax due for taxpayers with March balance dates.
- Third instalment of 1993 Provisional Tax due for taxpayers with November balance dates.
- Annual income tax returns due for non-IR 5 taxpayers with balance dates from 1 to 31 July 1992.

- 7 1992 end-of-year tax due for taxpayers with December balance dates.
- 20 RWT on interest deducted during October 1992 due for monthly payers.
- RWT on dividends deducted during October 1992 due.
- Non-Resident Withholding Tax (or approved issuer levy) deducted during October 1992 due.
- PAYE deductions and IR 66ES for first 15 days of November 1992 due - "large" employers.
- PAYE deductions and IR 66ES for October 1992 due - "small" employers.
- Gaming machine duty return and payment for month ended 31 October 1992 due.
- 30 GST return and payment for period ended 31 October 1992 due.
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