Deducting sponsorship as advertising expenditure

Summary

This item states the Commissioner's current policy on the deductibility of sponsorship funds as advertising expenses.

If a business cannot deduct expenditure in the form of sponsorship as a gift, it may be deductible as advertising expenditure under section 104 of the Income Tax Act 1976 (the general deductibility section). However, to be covered by this section there must be a sufficient relationship between the expenditure and gaining or producing assessable income.

All legislative references in this item are to the Income Tax Act 1976. Direct quotations from this Act are printed in smaller type.

Background

A business may choose to sponsor an event or organisation. In some situations the amount may be a gift, but sometimes sponsorship promotes the business and its products, so it may be advertising. This item discusses when amounts paid for sponsorship are deductible as advertising expenditure.

Legislation

Deduction

Section 104 is the general deductibility section. It states:

In calculating the assessable income of any taxpayer, any expenditure or loss to the extent to which it -

(a) Is incurred in gaining or producing the assessable income for any income year; or

(b) Is necessarily incurred in carrying on a business for the purpose of gaining or producing the assessable income for any income year-

may, except as otherwise provided in this Act, be deducted from the total income derived by the taxpayer in the income year in which the expenditure or loss is incurred.

Under section 106(1)(j) any expenditure or loss is not deductible to the extent that it is of a private or domestic nature.

Rebate for donations

Section 56A(2) allows income tax rebates for gifts made by individuals. These rebates are limited to gifts made to the general and specific societies, institutions, associations, organisations, trusts or funds listed in section 56A(2). The rebate equals one third of the total amount of all allowable gifts and school fees, limited to $500.

Section 147 allows companies to claim a deduction for donations to specified organisations, subject to certain monetary limits. This section applies to companies which are not close companies.

Under section 147(2) the deduction is limited to gifts to the societies, institutions, organisations, trusts or funds listed in section 56A(2). The amount of the deduction for all gifts made in the income year to any one donee cannot exceed the greater of one percent of the company's assessable income, or $4,000. The maximum deduction available for the income year is the greater of $1,000 or five percent of the company's assessable income.

Policy

Sponsorship of a third party

Businesses may want to sponsor an event or third party which does not fall within the donation criteria in section 56A or 147. Such expenditure may be deductible as advertising expenditure under section 104.

The Commissioner will only accept that sponsorship expenditure is deductible if the payment is in fact bona fide advertising expenditure in nature. To determine this, the Commissioner requires:

- a written contract providing that the payment is for advertising.
- that the sponsorship be for a minimum amount of $100. (This threshold is an administrative rule, not a legislative requirement.)
- adequate advertising. The existence of adequate advertising will depend on the particular factual situation. Usually, it would involve the publication of the taxpayer's name, product, and contact details. The advertising must include exposure in one or more of the usual advertising media (newspapers, pamphlets, brochures, television, radio). A simple acknowledgment alone would not generally constitute the provision of adequate advertising.
- if the advertising is through pamphlets or brochures, a reasonable distribution of the pamphlets or brochures. Whether or not distribution is reasonable will depend on the facts of each case. Relevant factors may include the number of pamphlets or brochures distributed, the frequency of distribution and the size of the advertising area.

Sponsorship of own business

Sometimes businesses may choose to enter events themselves in order to advertise the business and the products or services that they offer.

Section 106(1)(j) disallows a deduction for any expenditure that is of a private or personal nature. Therefore, when considering these deductions, the Commissioner must be satisfied that the expense is on advertising and not private expenditure on a recreational pastime.

In *Case P16* (1992) 14 NZTC 4,107 the taxpayer was a courier company that raced Group A cars which had the

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company's logo on them. The taxpayer chose this method of advertising because it believed this would be an ideal way to promote the company's courier service as the business would be associated with speed and efficiency. Another factor in the decision to use car racing was that one of the major shareholders had an interest in the sport, but he was not involved in the sport at the time.

The Court found that the shareholder's interest in motor racing was not the major or dominant factor in the decision. The Court stated that the issue in these cases is whether the expenditure is bona fide advertising expenditure in character, or is wholly or partly expenditure in the pursuance of a recreational pastime. If there are two factors, i.e. business and private, it is necessary to determine which is the dominant one and to apportion the expenditure if necessary. In this case the Court found that the expenditure was business and not private expenditure. In reaching its decision the Court considered several factors:

- The employer hosted clients and customers (both current and potential) at the event and encouraged them to meet the team.
- The decision to enter car racing was inherently logical from a business point of view.
- The campaign was successful. This was not to say that advertising must have good results to be deductible, but if the results are good then this is an important factor in favour of the expenditure being advertising expenditure.

(A full commentary on Case P16 is contained in TIB Volume Four, No.7.)

The result of this case is unusual in that only one purpose (business) was recognised. When an asset has two purposes, one business and one private, the Commissioner will continue to apportion the expenditure.

When considering deductions for advertising expenditure, each situation will be considered on its facts. The Commissioner must be satisfied that there is a sufficient connection with the income earning process of the business, and that the expenditure is not of a private or domestic nature.

GST and door to door sales

Introduction

This item summarises the legislation relating to GST and credit arrangements under the Door to Door Sales Act 1967.

Summary

Sales of goods and services by door to door salespersons are subject to the provisions of the Door to Door Sales Act 1967. This Act allows a person who purchases goods and services on credit from a door to door salesperson to cancel the transaction within a certain period. The GST Act 1985 (the "GST Act") provides a special time of supply rule for door to door sales. This rule recognises that the sale is not confirmed until the expiry of the cancellation period.

Legislation

When a door to door sale is made, section 5(4) provides that no supply occurs for GST purposes until the purchaser's right of cancellation, allowed under section 7 of the Door to Door Sales Act, has expired.

Section 7(1) of the Door to Door Sales Act allows a purchaser a seven-day cancellation period when the sale has been subject to a written agreement recording certain details. The written agreement must include all of these things:

- a statement advising the purchaser's right to cancel
- the vendor's name and address
- the total cost of credit
- the finance rate and payment details.

When there is no written agreement, section 7(3) of that Act allows the purchaser a one-month cancellation period.

Section 9 of the GST Act determines the time of supply rules for GST purposes. Section 9(1) provides the general rule and subsections (2) to (7) of section 9 provide specific rules for certain types of supply. It is important to note that these specific rules set the time of supply regardless of whether a supplier or recipient is accounting for GST on an invoice, payments or hybrid basis. Section 9(2)(b) deems a door to door sale to take place on the day after the purchaser's right of cancellation expires.

Example

Door to Door Rugs Ltd sells three rugs to John Smith on 30 June 1994. Door to Door Rugs Ltd accounts for GST on a six-monthly basis, and 30 June 1994 is the last day of its current taxable period. The sale is subject to a written agreement which means that John Smith has seven days to cancel the sale.

On the 8 July 1994 John has not cancelled the sale. Door to Door Rugs Ltd must account for GST in the taxable period ending on 31 December 1994.

Spreading of authors' income for tax purposes

Summary

This item sets out the how the legislation on spreading professional authors' income for tax purposes applies.

All legislative references in this item are to the Income Tax Act 1976.

Background

Section 84 applies when a taxpayer creates a literary, dramatic, musical or artistic work, and grants or assigns his or her interest in the copyright. Section 84 allows income derived from any grant or assignment to be spread over more than one year.

Legislation

Section 84(2) provides for the spreading of income where certain criteria are met.

These criteria are:

(a) A taxpayer, being an author of a literary, dramatic, musical, or artistic work, assigns the copyright therein wholly or partially, or grants any interest in the copyright by licence; and

(b) The taxpayer was engaged on the making of the work for a period of more than 12 months.

Lump sums

Section 84(3) is the first spreading provision for lump sum payments received for assigning or granting an interest in copyright, including an advance on royalties.

If an author applies in writing within six years of the end of an income year in which he or she receives a lump sum, the Commissioner may apportion the amount of the payment equally between the year in which the author receives it and:

- the income year immediately preceding that income year (if the work took less than 24 months)
- the two income years immediately preceding that income year (if the time to create the work exceeded 24 months).

Other payments

Section 84(4) also allows income to be spread when the taxpayer receives payments (other than lump sums) for assigning or granting an interest in copyright within two years of the first publication of the work. To spread such income, the taxpayer must apply in writing to the Commissioner within eight years of the first publication. The Commissioner may then apportion the income equally between the year of receipt and the immediately preceding year.

Section 84(6) provides for a spread similar to that for other payments, when authors arrange publication of their own work.

Application

Authors of literary, dramatic, musical, or artistic works that have taken over 12 months to create may spread income from payments for the whole or partial assignment of copyright, or the granting of any interest in the copyright by licence.

The author can deduct expenses incurred in writing a book or other work from the total income in the year in which he or she incurs that expenditure.

Any income that is spread must still be included in the income year in which it was actually derived, when determining assessable income for Family Support purposes.

In applying section 84, the Commissioner has the power to amend any assessment of a taxpayer at any time.

Example

Elspeth S. Cribbler is a professional author. She was commissioned, on a royalty basis, to write a book exploring the recurring use of the bunny motif in children's books. This took three years, and involved the purchase of many children's books and travel to Beatrix Potter's birthplace, to undertake research. Elspeth incurred these costs solely to enable her to write the book. These costs are deductible in the year they were incurred.

The book - "Hot Cross Bunnies - Lost in the Sahara" - was finally published in January of 1991 and became a runaway best-seller.

In February 1991, Elspeth entered and won the Bug Bunny Book of the Year Award, worth $100,000. In the income year ending 31 March 1991, she had also received advance royalties of $43,000.

Included in Elspeth's income for 1991 were:

Book Award $100,000 - (Not able to be apportioned, as not consideration for grant or assignment of interest in copyright. Taxable as a receipt from the practice of the author's profession, vocation or business)

Royalties $14,333 - ($43,000 spread over three years, as a lump sum for work over 24 months)

In the income year ending 31 March 1994, Elspeth sold the film rights for $250,000, and received royalties of $10,000.

Her assessable income for the income year ending 31 March 1994 included:

Film rights $83,333 - ($250,000 apportioned over three years, as this is a lump sum for work over 24 months)

Royalties $10,000 - (Amount received that year - now over two years since first publication of work)

Ceasing to satisfy the conditions for accounting for GST on payments basis

Introduction

This item sets out how the legislation applies when a GST registered person who is using the payments basis for GST ceases to satisfy the conditions for using that basis.

Background

When a registered person no longer satisfies the requirements for using the payments basis, the Commissioner must direct the registered person to adopt an alternative accounting basis.

All legislative references in this item are to the Goods and Services Tax Act 1985. Direct quotations from this Act are printed in smaller type.

Legislation

Section 19A(1) sets out the conditions for accounting for GST on a payments basis. It states that:

The Commissioner shall not direct any registered person to account for tax payable on a payments basis under section 19 of this Act unless -

(a) The registered person is -

(i) A public authority that is appropriated public money otherwise than pursuant to Mode B or Mode C within the meaning of the Public Finance Act 1989; or

(ii) A local authority; or

(iii)A non-profit body; or

(b) In respect of the registered person -

(i) At the end of any month, the total value of the person's taxable supplies in the period of 12 months then ending has not exceeded $1,000,000 (or such greater amount as the Governor-General may, from time to time, by Order in Council declare); or

(ii) In the period of 12 months beginning on the first day of any month, the total value of the person's taxable supplies is not likely to exceed the amount specified in or under subparagraph (i) of this paragraph; or

(c) The Commissioner is satisfied that, due to the nature, volume, and value of taxable supplies made by the registered person and the nature of the accounting system employed by the person, it would be appropriate for the person to furnish returns under this Act on a payments basis.

Section 19A(2) states:

Where the Commissioner is satisfied (whether by a notification given by the person under section 53 (cb) of this Act or otherwise) that a registered person who has been directed to account for tax payable on a payments basis has ceased to satisfy the conditions set out in paragraphs (a) to (c) of subsection (1) of this section, the Commissioner shall either-

(a) Direct that the registered person account for tax payable on an invoice basis; or

(b) If the registered person so requests in writing, direct that the registered person account for tax payable on a hybrid basis.

However, under section 19A(3) a registered person will not have to change from the payments basis of accounting for GST if his or her taxable supplies exceed (or will exceed) $1,000,000 solely because of one of these reasons:

- The person ceased to carry out any taxable activity, or made a substantial and permanent reduction in the size or scale of the taxable activity.
- The person replaced any plant or capital asset used in the taxable activity.

Application

The Commissioner has no discretion in this matter. When the registered person fails to satisfy the conditions, the Commissioner must direct that person to adopt an alternative basis for accounting.

Under section 19(4), once the Commissioner has directed a registered person to change the basis of accounting, the change is effective from one of these dates:

- the start of the taxable period immediately following the taxable period in which the direction is given
- the date the person registered for GST, if the Commissioner gives the direction before the end of the first taxable period following registration
- the start of any other period that the Commissioner considers equitable, if the Commissioner and the person agree.

Under section 53(1)(cb), once a GST registered person no longer satisfies the conditions for the payments basis, he or she must give the Commissioner written notice within 21 days. GST registered persons commit an offence under section 62(1)(b) if they do not notify the Commissioner when they cease to satisfy the conditions of section 19A.

Section 62(2) provides for a fine of up to $2,000 on the first occasion on which a person is convicted for such an offence or offences, $4,000 on the second occasion, and $6,000 on subsequent occasions.

Example

Jane and John own a small supermarket in the suburbs. For a number of years their annual sales remained about $520,000. They have always used the payments basis of accounting for GST.

Recently, a local builder developed a new subdivision in their area, and business boomed. Monthly sales have jumped to around $95,000. The business no longer automatically satisfies the conditions for using the payments basis of accounting, as the total value of taxable supplies is likely to exceed $1,000,000 in the next 12 months.

Jane and John are required to notify the Commissioner of this in writing within 21 days. They may apply to the Commissioner to continue to use the payments basis.

Tax treatment of bodies corporate which are constituted under the Unit Titles Act 1972

Summary

This item states the Commissioner's policy on the tax treatment of bodies corporate which are constituted under the Unit Titles Act 1972. It confirms that these bodies corporate are companies, and taxed as mutual associations for the purposes of the Income Tax Act 1976.

Background

In the early 1970s the development of multi-unit buildings on single lots of land became more common. The flat-ownership schemes which existed were not satisfactory because the Land Transfer Act 1952 was unable to give title to each flat owner because titles were typically issued for individual lots of land.

The Unit Titles Act 1972 was passed to provide a more secure and suitable method of developing multi-unit buildings. Instead of having only one title for the land and the units that are on it, the Unit Titles Act provides for the subdivision of land into units. The proprietors own the units individually and own the common property as tenants in common. The proprietors of the units also become the body corporate.

There is some confusion over how bodies corporate and their income are to be treated for the purposes of the Income Tax Act. This item clarifies the tax status of bodies corporate, and the tax treatment of subscriptions and levies that they receive.

Legislation

Income Tax Act 1976

Section 2 defines "company" as:

> any body corporate or other entity which has a legal personality or existence distinct from those of its members, whether that body corporate or other entity is incorporated or created in New Zealand or elsewhere; and includes anything deemed to be a company for the purposes of this Act by any provision of this Act; but does not include a Maori authority.

Under section 61(34), income derived by any association which is not carried on for the purposes of profit or gain and which is prohibited from making any distribution to any proprietor is exempt from tax. This exemption is limited in any income year to $1,000 of the aggregate of that income.

Section 199(2) states:

> Where in any income year an association enters into transactions with its members, or with its members and other persons, any profit or surplus arising in that income year from those transactions which would be included in the profits or gains of the association if the transactions were not of a mutual character shall be deemed to be profits or gains arising from those transactions and, subject to the deduction allowed under subsection (3) of this section, to be assessable income of the association derived in that income year (such an association being referred to in this section as an association to which this section applies).

Section 199(3) allows a rebate to the association of the lesser of the amount of rebates paid to the members or the amount of profits attributable to member transactions.

Section 199(10)(d) states:

> Every reference in this section to transactions as being transactions of an association with its members or transactions of members of a association with the association and as being, in either case, transactions that are taken into account in calculating the assessable income of the association shall be taken as a reference to transactions of any one or more of the following classes, namely:
>
> ...
>
> (d) The supply of services by the association to a member of the association:

Unit Titles Act 1972

Section 12(1) states that the registered proprietors of the land to which a unit plan relates shall become a body corporate.

Section 15(3) states:

> The body corporate may, pursuant to a resolution of the proprietors, distribute any money or personal property in its possession and surplus to its current requirements among the proprietors for the time being according to their unit entitlements.

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Policy

Whether bodies corporate are companies

The Commissioner considers that bodies corporate under the Unit Titles Act fall within the definition of a company in the Income Tax Act. The reason for this is that the definition of company for income tax purposes is deliberately wide and is intended to cover many types of entity. A body corporate under the Unit Titles Act is an entity with a separate legal status, and it falls within the wide definition of company in the Income Tax Act.

Assessability of subscriptions and levies

Most body corporate income comes from subscriptions and levies which the body corporate uses for maintenance, repairs, management, and other outgoings on the building. The body corporate levies proprietors to cover existing expenses and also to cover future expenses. Generally, the amount of money levied will be the amount that the body corporate believes is necessary to cover expenses. Because amounts are levied for future expenses, the body corporate holds them until it needs them, so the money may be invested to produce investment income.

The Commissioner considers that bodies corporate are mutual associations. As such they are subject either to section 199 of the Income Tax Act or, if that section does not apply, to the common law mutuality principle. (This principle was discussed in TIB Volume Four, No.8 (April 1993)).

Profits from the supply of services by a mutual association to its members are assessable income under section 199. *Case 32* (1978) 2 TRNZ 603; 3 NZTC 60,312 discusses the type of transaction with association members that falls within section 199. It holds that levies which are paid in return for general services for the mutual benefit of members are not member transactions under the section. These amounts are covered by the common law principle of mutuality, and are not assessable.

The Commissioner considers that *Case 32* applies to the particular situation where a body corporate levies its proprietors for general amounts for expenses for the current year or following years. These amounts are not subject to section 199, and are not assessable.

If the body corporate levies proprietors during the year to pay for a specific service these amounts are covered by section 199. Any profit or surplus which arises from this type of transaction is assessable under section 199(2). However, a deduction is allowed to the body corporate of the lesser of the amount of rebates paid to the members or the amount of profits attributable to member transactions.

There is a common misconception that amounts received by bodies corporate are not assessable as income because bodies corporate are non-profit organisations and therefore, any income less than $1,000 is exempt under section 61(34) of the Income Tax Act. Section 61(34) only applies to bodies that are prohibited from making any distributions to any proprietor, member, or shareholder. Bodies corporate are permitted by section 15(3) of the Unit Titles Act to distribute money and personal property to the proprietors. Therefore a body corporate's income is not exempt under this section.

Example

At 1 April 1993 a body corporate has $15,600.

Between 1 April 1993 and 31 March 1994 the body corporate receives and spends the following amounts:

Receipts	
Subscriptions and levies - general	$10,000
Subscriptions and levies - specific	$10,000
Interest	$ 900
Expenses	
Providing specific services to proprietors	$10,000

Of the amounts received for the 1993/1994 year:

- Interest of $900 is assessable. The bank will have deducted resident withholding tax which can be credited against the tax payable on the interest.
- The specific subscriptions and levies of $10,000 are not assessable because $10,000 was fully used to provide specific services during the year. No profit arose so there is no tax to pay under section 199.
- The remaining $10,000 was set aside with the other $15,600 to provide for general services in the future. It is not assessable under the common law mutuality principle.

Payments made by instalments - accounting for GST on payments basis

Introduction

This item sets out how the special time of supply rules apply to payments by instalments, periodic payments, and hire purchase payments.

All legislative references in this item are to the Goods and Services Tax Act 1985 unless otherwise stated. Direct quotations from this Act are printed in smaller type.

Background

There has been some confusion about how the time of supply rules apply to registered persons who account for GST on instalment payments using the payments basis.

Legislation

Section 9(1) provides that, for the purposes of the Act:

> a supply of goods and services shall be deemed to take place at the earlier of the time an invoice is issued by the supplier or the recipient or the time any payment is received by the supplier, in respect of that supply.

This is the usual time of supply rule. The Act also provides different rules in certain situations. These rules take priority over the usual time of supply rules.

Sections 9(2) and (3) contain the special time of supply rules. Section 9(3) deems when a supply takes place in situations where payments are made by instalments, periodically, or under a hire purchase agreement. In summary, it provides that:

- When goods are supplied under an agreement to hire, or services are supplied under a periodic payment agreement or enactment, for each successive supply the time of supply is the earlier of when a payment is either due or received.
- When goods are supplied progressively or periodically under an agreement or enactment under which payment for the goods is due in instalments or periodically, the time of supply is the earliest of when each payment falls due, when the payment is received, or when an invoice is issued for the progress payment.
- When goods are supplied for a building or engineering work under an agreement or enactment under which payment for the goods is due and payable in instalments or periodically in relation to the progressive nature of that building or engineering work, the time of supply is the earliest of when each payment falls due, when the payment is received, or when an invoice is issued for the progress payment.
- When goods are supplied under a hire purchase agreement (as defined by the Hire Purchase Act 1971) section 9(3)(b) of the Goods and Services Tax Act states that the time of supply is the time the parties enter into the agreement.

Under the Hire Purchase Act 1971, a "hire purchase agreement" means:

- an agreement by which the supplier lets or hires goods with an option to purchase; and
- an agreement for the purchase of goods by instalment payments under which the person who agrees to purchase the goods has possession of them before paying the total amount.

The definition excludes agreements which are not made at retail, and agreements in which ownership in the goods passes at the time of the agreement or of delivery.

Application

Accounting for GST on payments basis

The time of supply rules dictate when a supply is deemed to be made. Sections 20(3) and (4) specify when a registered person should account for GST on a supply.

Generally, a registered person on the payments basis must account for GST on payments when he or she receives them. However, when there is a specific time of supply rule the treatment may differ.

Hire purchase agreements

Under sections 9(3)(b) and 20(4)(b)(ii), a supplier who accounts for GST on the payments basis must account for output tax on the total cash value of goods and services that he or she supplies under a hire purchase agreement during the taxable period in which the parties enter into the agreement.

Under sections 9(3)(b) and 20(3)(b)(iii), a recipient who accounts for GST on the payments basis must account for input tax on the total cash value of goods and services supplied under a hire purchase agreement during the taxable period in which the parties enter into the agreement.

Periodic payments or instalments

Under sections 9(3)(a) or (aa) and 20(4)(b)(i), a supplier who accounts for GST on the payments basis must account for output tax on supplies he or she makes in the taxable period in which the supply is deemed to take place, to the extent that payment has been received for the supply.

Under sections 9(3)(a) or (aa) and 20(3)(b)(i), a recipient who accounts for GST on the payments basis must account for input tax on supplies in the taxable period in which the supply is deemed to have taken place, to the extent that payment has been made for the supply.

Example

Mary is a registered person for GST purposes and accounts for GST on the payments basis. She buys a steriliser for her hairdressing salon on hire purchase. The cash price is $1,000 including GST. The hire purchase price, including interest, is $1,150, divided into 12 monthly payments of $95.83.

Mary and the retailer enter into the agreement on 15 January 1994. In her next GST return, Mary claims a GST input credit on the GST component of the total cash price of the steriliser of $111.11 (1/9th of the total cash price). The retailer accounts for GST on a payments basis also. He must return $111.11 (1/9th of the total cash price) in his next return.

Mary also hires a television set for $45 per month to entertain her clients. She claims GST input tax of $5 (1/9th of the payment) on the amount paid per month to the television hire company.

Personal sickness or accident insurance policies and loss of earnings insurance policies (individual policies only)

Summary

This item states the Commissioner's new policy on the income tax treatment of personal sickness or accident (PSA) insurance policies and loss of earnings insurance policies. The policy set out in this item only applies to insurance policies taken out by an individual which provide cover for that individual.

A benefit received under a PSA policy is exempt from income tax, and premiums paid for a PSA policy are non-deductible. The Commissioner's view is that PSA policies are policies which provide for payment of a sum(s) which is specified in the insurance policy and which is payable if the insured person is incapacitated as a result of an accident or sickness.

Income received under a loss of earnings policy is assessable and the premiums are deductible. The Commissioner's view is that loss of earnings policies are policies which provide for benefits calculated with reference to income lost by the insured as a result of incapacitation. A payment under such a policy may be calculated with reference to lost income even if there is a maximum or minimum amount payable under the policy. This last point is a change from our previous policy.

This policy replaces our previous policy on these types of insurance policies published in TIB Volume Two No.5 (December 1990). It applies from the dates shown under the "application" heading on page 10.

Legislative references in this item are to the Income Tax Act 1976. Direct quotes from this Act are printed in smaller type.

Background

Assessable and exempt income

PSA policies and loss of earnings policies both provide the insured with benefits in the event that the insured becomes disabled, sick or sustains a loss of earnings or profits as a result of disablement or sickness. Some of these payments are exempt from tax.

Section 61(40) exempts:

> Income derived by any person, in respect of any period of incapacity for work, from any payment received by him by way of a benefit under a personal sickness or accident policy of insurance, not being a payment calculated according to loss of earnings or profits:

There are three features of this exemption:

- income is derived from a PSA policy
- the income is derived during a period of incapacity for work
- the payment is not calculated according to loss or earnings or profits.

If a payment is calculated according to loss of earnings of profits, it will not be exempt. For tax purposes, a distinction must be made between payments calculated according to earnings and other payments.

Deductions

Under section 104, expenses can be deducted from assessable income to the extent to which they meet either of these conditions:

- they are incurred in gaining or producing the assessable income for any income year
- they are necessarily incurred in carrying on a business for the purpose of gaining or producing the assessable income for any income year.

We discuss the deductibility of premiums after the discussion on the assessability of amounts received.

Policy

To discuss the tax treatment, we need to differentiate between three types of policies:

- PSA policies - under which all benefits are exempt
- Loss of earnings policies - under which all benefits are assessable
- Mixed policies - under which some benefits are exempt and some are assessable.

This policy statement only applies to insurance policies that provide cover for the person who holds the policy.

PSA policies

The Commissioner's view is that benefits payable are not calculated according to loss of earnings or profits if they are specified as dollar amounts in the policy. We also consider that payment of hospital costs is a benefit which is not calculated according to earnings. Both of these benefits are exempt from income tax. In this item we refer to an insurance policy which provides for these types of benefit as a PSA policy.

If the policy specifies that a certain dollar amount is payable, the amount payable may be a lump sum based on a scale which varies according to the disability suffered by the insured person, or it may be a series of payments payable during a period of incapacity for work. For example, the insured person may receive $10,000 for the loss of a hand, or $500 a week during a period of incapacity for work.

The amount payable may be based on the insured person's earnings or profits at the time the policy is taken out. However, if it is, that amount must not vary during the course of the policy in relation to variations in the insured person's actual or expected earnings or profits. A policy will still be an exempt PSA policy if it provides that the amount payable will vary in relation to the Consumer Price Index or some other measure which is unrelated to the insured person's income earning process.

A policy which provides for benefits payable which are a percentage of the person's earnings at the time of a claim is not an exempt PSA policy.

An insurance policy may provide that premiums do not have to be paid during incapacity. The Commissioner considers that this benefit does not have income tax consequences. It is simply a reduction of a private expense and does not give rise to income.

Loss of earnings policies

The Commissioner's view is that a loss of earnings or profits insurance policy is one under which benefits are calculated with reference to income lost by the insured as a result of incapacitation. Benefits from this type of policy are assessable. In this item these policies are called loss of earnings policies.

At the time the insured person makes a claim, the insurance company will require evidence of the amount of earnings or profits lost or expected to be lost, before it will make any payment. The insurance company will only pay out the amount of loss proven, subject to any limitations in the policy.

The policy may provide that a maximum or minimum benefit is payable. For example, the policy may say that the maximum amount payable each week is the lesser of earnings lost for that week and $1,000.

The Commissioner's former policy, set out in TIB Volume Two No. 5 (December 1990), was that an insurance policy would only be viewed as a loss of earnings policy if the benefits were solely related to the taxpayer's prior income. If the benefits were limited to a maximum or minimum amount, the Commissioner viewed the policies as PSA policies, and the benefits were exempt. This aspect of the Commissioner's policy has changed. There are commercial reasons for limiting the insurer's liability under loss of earnings policies. A limit on the insurer's liability does not necessarily mean that benefits payable under an insurance policy are not calculated according to earnings.

Mixed policies

Some policies provide for both types of benefits. For example, a policy might provide for an amount based on lost earnings and a lump sum amount payable for permanent disability or hospital benefits.

Benefits received will be exempt to the extent to which they are benefits of the type discussed under "PSA policies" above. Benefits will be assessable to the extent to which they are benefits of the type discussed under "Loss of earnings policies" above.

Distinguishing features

To determine whether a policy is an exempt PSA policy or an assessable loss of earnings policy, the Commissioner will look for the following features:

PSA policy

- Benefits payable under the policy will be of any one of these types:
  - a lump sum or sums based on the severity of disability sustained or sickness contracted
  - a lump sum or sums based on hospital costs
  - periodic payments of the amount specified under the policy and payable during the period of incapacity.
- The specified payments may be the same amount that the insured earns at the time the policy is taken out, but if so, this amount cannot rise or fall in line with changes in earnings or profits over the term of the policy. The specified payments may vary in relation to an unrelated source such as the Consumer Price Index.
- The insurer will not require proof of loss of earnings or profits as a condition of payment.
- The policy may require proof of accident or sickness.

Loss of earnings policy

- The amount payable under the policy must be calculated with reference to earnings or profits lost by the insured as a result of incapacitation. However, the policy may provide that the insurance company has a maximum or minimum liability, i.e., the benefits payable under the policy may be capped. The cap may be a set figure or a percentage of the insured's earnings or profits in a period before incapacitation.
- The insurer will require proof of loss of earnings or profits.

Deductions

Premiums are deductible if they are incurred in the course of gaining or producing assessable income. This means they are deductible if they are incurred to maintain a process which earns assessable income.

Premiums paid under a PSA policy are not deductible because they are not incurred to maintain a process which earns assessable income.

Premiums paid under a loss of earnings policy are deductible, whether the policy holder is an employee or is self-employed. They are incurred to maintain a process which earns assessable income. Section 105 (which prohibits employees from claiming deductions for expenditure incurred in gaining or producing employment income) does not apply because the premiums are not incurred in gaining or producing 'income from employment', as that phrase is defined in section 105.

Premiums paid under most mixed policies must be apportioned on the basis of the benefits payable. Premiums will be non-deductible to the extent to which they relate to benefits paid under PSA policies. Premiums

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will be deductible to the extent to which they relate to benefits paid under loss of earnings policies.

The Commissioner accepts that under some mixed policies, only a negligible amount of each premium relates to a flat sum benefit and the rest of the premium relates to benefits calculated according to loss of earnings or profits. If the amount of a premium which is paid for flat sum benefits is two percent or less, the whole of each premium can be deducted.

Your insurance company should be able to assist in apportioning premiums, and also in identifying those mixed benefit policies where only two percent of each premium is paid for flat sum 'PSA' benefits.

Application

This policy will apply to all new insurance policies entered into on or following 1 November 1994, and to all existing policies from their first annual renewal date on or following 1 November 1994. This policy replaces our previous policy published in TIB Volume Two No 5 (December 1990) from those dates.

If you are unsure about whether a particular policy is exempt you can inquire at your Inland Revenue district office.

Example 1

Rachel Graphics is a self-employed commercial designer. She is concerned that she may not be able to meet her outgoings if she is sick or disabled for an extended period. She takes out an insurance policy which has the following terms:

- If she becomes disabled as a result of accident or sickness, she will be entitled to receive the benefits under the policy.
- The benefits are payable after a waiting period of one month from the date of receiving medical advice in respect of the disability.
- The weekly benefits payable are the lesser of $800 and her average weekly profits in the previous six months.
- She will be required to show proof of her earnings in the last six months before benefits are payable.

Under the new policy we consider that this is a loss of earnings policy. The benefits payable indemnify Rachel, up to a maximum amount, for the profits she will lose as a result of being disabled. She will have to provide proof of her earnings before she is entitled to any benefits.

She can deduct the premiums and must return any benefits as income.

Example 2

Wiremu Drawer is an employee in a plumbing business. He takes out a policy which provides for the following benefits.

The lesser of these two amounts:

1. The "amount of cover", which is a dollar amount specified in a schedule to his policy
2. Eighty percent of "average weekly income". Average weekly income is the higher of these two amounts:
   - the weekly average in the 12 months prior to disability
   - the weekly average in any 12 months in the three years prior to disability.

Premiums are not payable during the period he is disabled and claiming under the policy.

Under the Commissioner's new policy, this is a loss of earnings policy. Benefits are calculated at the time of claim with reference to earnings. Wiremu is assessable on benefits he receives, and can deduct the premiums he pays.

The premium waiver benefit does not give rise to income and has no tax consequences.

Note that under the previous policy which applies to insurance policies entered into before 1 November 1994, the policy is an exempt/non-deductible PSA policy because the benefits are capped.

Example 3

Robyn Scribbler is a freelance promoter. Under her policy she is entitled to exactly the same benefits as Wiremu in Example 2. If she is partially disabled, those benefits are reduced according to the amount she is able to earn. In that situation, the benefits she receives under the policy are called "recovery benefits".

She is also entitled to a hospitalisation benefit. The hospitalisation benefit covers certain hospital costs for a limited period, if Robyn is hospitalised. Her insurance company have advised her that only one percent of each premium relates to the hospitalisation benefit.

All of the benefits except for the hospitalisation benefits are assessable. The recovery benefit is the assessable benefit offset by Robyn's earnings when she is only partially disabled. It is assessable because it is calculated according to her lost earnings.

The hospitalisation benefit is not calculated according to earnings and is exempt.

Robyn can deduct all of her premiums, because only one percent relates to the exempt hospitalisation benefits.

Example 4

Ryan Painter, who is a signwriter employed by a company, takes out a policy which provides for a number of different benefits:

- Weekly benefits for temporary total incapacity. This benefit is $400 a week for the first 11 weeks of incapacity.
- Weekly benefits for permanent total incapacity. This benefit is the lesser of $600 and a percentage of Ryan's average weekly income in the year prior to incapacity. It is paid after 12 weeks of incapacity.
- Hospital expenses.
- Capital benefits for permanent loss. This benefit is a percentage of a lump sum specified in the insurance contract and varies in relation to the physical disability suffered.

The weekly benefits for temporary total incapacity are periodic payments of the amount specified under the policy, so they are exempt. The hospital expenses benefit and capital benefits for permanent loss are also amounts specified under the policy, so they are also exempt.

The weekly benefits for permanent total incapacity are calculated according to earnings, so they are assessable.

The premiums are non-deductible to the extent they are paid for the exempt benefits, and deductible to the extent they are paid for the weekly benefits for permanent total incapacity. Ryan's insurance company has advised him of the percentage of each premium which relates to the exempt and assessable benefits. In this example, the portion of premiums which relate to the non-assessable benefits exceed two percent of the total premiums. The portion of premiums which Ryan can claim as deductions must reflect the apportionment advised by the insurance company.

Correction: NZ Superannuitants receiving overseas government pensions

In TIB Volume Five, No.13 (June 1994), we published an article on overseas pensions received by NZ superannuitants.

There was a mathematical error in example 3 on page 2 of that item. The second half of the example should have read as follows: (corrections are underlined)

Net NZ superannuation is:

a - (b - c)

"a"	= $1,000
b = 24% x ($11,000 + $1,000 + $8,000), less low income rebate	= <u>$4,365</u>
c = 24% x ($11,000 + $8,000), less low income rebate	= <u>$4,085</u>
Net NZ superannuation	= **<u>$ 720</u>**

In this example the surcharge exceeds the net NZ superannuation. The maximum surcharge payable is the amount of the net NZ superannuation - <u>$720.</u>

Paying FBT yearly - no change in base interest rate

There will be no change to the base rate which is used to calculate interest payable by employers who have elected to pay fringe benefit tax on an annual or income year basis. The base rate will remain at 9% for the 1994 and 1995 income years.

If employers elect to pay their FBT only once each year, they are charged interest to compensate the Government for the deferred tax payment caused by paying FBT once rather than four times each year.

Section 336TC(4) of the Income Tax Act states that when the base rate of interest is set, the provisional tax use-of-money interest rate must be taken into account. This means that in most circumstances, the FBT base interest rate will be the same as the provisional tax use-of-money interest rate.

For more details on how to calculate interest on FBT, see TIB Volume Four, No.11 (June 1993).

Budget night announcements - legislation passed

Tax-related announcements contained in the 1994 Budget have been enacted through the Income Tax Amendment Act (No. 2) 1994 and the Stamp and Cheque Duties Amendment Act (No. 2) 1994. These Acts received the Royal assent on 23 September 1994.

Family Support - Income Tax Amendment Act (No.2) 1994

The Family Support changes announced in the Budget have been enacted through this Amendment Act.

From 1 October 1994 the level at which Family Support starts to abate has been increased from $17,500 to $20,000. For the 1994/95 income year a composite rate of $18,750 will apply. The second abatement threshold of $27,000 remains unchanged.

The other change contained in this Act relates to the amount of Family Support for second, and subsequent children who are aged 13 and under. The amount has been increased from $24 per week to $27 per week, or $1,404 per annum. This change also came into effect on 1 October 1994. For the 1994/95 income year the composite rate will be $1,326.00.

Lease duty on rights to use land - Stamp and Cheque Duties Amendment Act (No.2) 1994

The Stamp and Cheque Duties Amendment Act (No. 2) 1994 gives effect to the Budget announcement that lease duty will no longer be imposed on the granting of rights to use or take profits from land.

The Amendment Act repeals paragraph (c) of the definition of "lease" in section 8 of the Stamp and Cheque Duties Act 1971. The amendment applies to rights granted on or after 1 July 1994.

Paragraph (c) covers any right, privilege or licence which entitles the grantee to enter land, to use land, or to take timber, minerals or other profits from land. In particular, the types of instruments that will not be subject to lease duty will include forestry rights, mineral rights, profits a prendre and licences to use land for, say, hunting purposes.

The amendment does not affect lease duty on the granting of leases and easements. Conveyance duty on the conveyance of such rights to use or take profits from land is also not affected.

There is a consequential amendment to the definition of rent to take account of the amendment to the definition of lease.

International tax regime - booklets available soon

Inland Revenue's information booklets on the international tax regime will soon be available. These three booklets will cover the Foreign Investment Fund, Controlled Foreign Company, and Foreign Dividend Withholding Payment rules.

We had intended to publish these booklets earlier than this, but the subject matter is extremely complex and we want to ensure that every detail is as accurate as possible. We have incorporated into the booklets legislative changes which have occurred since the international tax regime took effect.

In the meantime, this information on the international tax regime is already available in earlier TIBs:

- New FIF rules and attributed repatriation rules, plus changes to the controlled foreign company rules - TIB Volume Four, No.9 (May 1993)
- New underlying foreign tax credit rules, and changes to BETA and FDWP rules - TIB Volume Five, No.4 (October 1993)
- CFC and FIF disclosure exemptions for the 1994 income year - TIB Volume Five, No.13 (June 1994).

The booklet dealing with foreign investment funds will be available within 1-2 weeks of when you receive this TIB, and the other two booklets will be available as soon as possible after that.

Inland Revenue has granted an automatic extension of time beyond the 7 July IR 3 return filing date for taxpayers who need the information in these booklets to complete their returns.

Determination E10: Persons not required to comply with section 104A of the Income Tax Act 1976

Summary

This determination sets out circumstances under which persons do not have to make accrual adjustments to deductible expenditure, as required by section 104A.

Background

Expenditure which is deductible under section 104 must be adjusted for accruals that exist at the end of the income year. This determination specifies the type of expenditure, amount, and the maximum period from balance date when accrual adjustments are not required.

The following paragraphs explain the differences between Determination E10 and Determination E9.

Application

Previous determinations under section 104A(5) have been limited to a single income year. The revised determination applies to the income year starting on 1 April 1994 and to every subsequent income year, until the Commissioner cancels the determination.

"Audit fees"

The definition of "audit fees" is amended by deleting the word "payable" and substituting the word "incurred", and by removing the words " to a Qualified person" where they occurred, and inserting the words " of a Qualified person", after the word "report".

The amendment brings the definition of audit fees, for the purposes of the determination, into line with the determining provision (3), which refers to expenditure "incurred". It removes a potential complication which arises from using the previous term - "payable".

"Financial statements"

The definition of financial statements is amended by adding paragraphs (d) and (e). These paragraphs widen the definition by including certain further financial statements within the meaning of that expression in sections 8 and 9 of the Financial Reporting Act 1993.

"Mandatory accounting costs"

The definition of "mandatory accounting costs" has been amended by adding paragraph (c).

As defined in Determination E9, "mandatory accounting costs" did not include the costs of meeting a statutory requirement to provide information on events or states of affairs other than those occurring in the income year. There is a statutory requirement that reporting entities provide information on certain post-balance date events. The amendment includes the cost of such accounting in the scope of the determination.

"Qualified person"

The definition of "qualified person" is updated for the Companies Act 1993.

Amounts

There has been no alteration to the amounts in the schedule.

The determination was made under section 104A(5) of the Act. It was signed by the Director (Rulings) on 12 October 1994. The full determination is printed below.

Determination E10: 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 1994, and in respect of every subsequent income year until this determination is cancelled by the Commissioner.

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 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 incurred by the person in relation to the preparation of a report of a Qualified person 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:

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(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;

(d) Any financial statement within the meaning of that term in section 8 of the Financial Reporting Act 1993.

(e) Any group financial statements within the meaning of that term in section 9 of the Financial Reporting Act 1993.

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

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

(g) 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-

(c) Events occurring in, or any state of affairs in, the income year immediately following that income year, that are required to be reported in the financial statements for the income year preceding the income year in which those events occurred or that state of affairs existed -

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 in terms of section 199 of the Companies Act 1993; or

(b) A person similarly qualified, according to the law in any other jurisdiction, for appointment as an auditor of a body corporate.

3. Determination

Any person who incurs expenditure that is deductible in the income year commencing on the 1st day of April 1994, or that is deductible in any subsequent income year until this determination is cancelled by the Commissioner, shall not be required to comply with section 104A of the Income Tax Act 1976 in respect of that expenditure and that 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 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:

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 the partnership and by no other person.

This determination is signed by me on the 12th day of October in the year 1994.

Simon Sherry
Director (Rulings)

Schedule

Description of Expenditure Column (1)	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 ending 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 VIII of the Rating Powers Act 1988 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.		

Questions we've been asked

This section of the Tax Information Bulletin sets out the answers to some day-to-day questions that people have asked. We have published these as they may be of general interest to readers.

These items are based on letters we've received. A general similarity to items in this package will not necessarily lead to the same tax result. Each case will depend on its own facts.

Income Tax Act 1976

Confirming that an activity is not a business for income tax purposes

Section 65(2)(a) - business profits: A taxpayer lives on a rural lifestyle block and commutes daily to his urban employment. He has asked if Inland Revenue could confirm in writing that his farming activity was not a business for tax purposes, and if so, what details he should supply with his request for this status.

Under section 65(2)(a) "business profits" are assessable income. However, some taxpayers may not be certain whether their activities constitute a business or not. The Commissioner is able to confirm the business/non-business status once all relevant facts have been considered.

In determining if someone is in "business", the taxpayer must meet the definition under section 2, i.e., "includes any profession, trade, manufacture, or undertaking carried on for pecuniary profit".

To determine if the farming activity is a business, the taxpayer must intend to make a profit.

If the facts of a particular case show that the taxpayer does not intend to make a profit, Inland Revenue can confirm that the taxpayer's activity is not a business. In a non-business activity, income tax is not payable on any income, nor are any expenses deductible.

In considering the business status of a farming activity, Inland Revenue will often ask the following questions:

- Do you intend to make the farm profitable, and if so how?
- What farming experience do you have?
- What activities are being carried out on the farm?
- How much time, effort, and money do you contribute to the farm?
- Why did you decide on that type of farming?
- Do you have a predicted budget?
- How is the activity financed?
- What is the carrying capacity of the farm, and when is it expected that the farm will meet its full potential?
- Do you have anything you might like to add in support of your contentions?

Any confirmation that Inland Revenue gives about the status of an activity is dependent upon the information we receive. If details are undisclosed or the activity or intention changes, Inland Revenue may review this decision.

Distributing beneficiary income to private schools

Section 96 and section 99 - Assignment of income, tax avoidance, and gift duty: Parents of a private school pupil asked about the tax effects of an arrangement whereby they enter into an agreement with the school, under which the school agrees to waive its fees in return for a distribution of beneficiary income of the same amount. The parents would establish a trust which provides for a class of beneficiaries being any educational institution in New Zealand. The trust's assessable income would be reduced by the distribution of beneficiary income to the school.

If the child for whom the fees are payable is also a beneficiary of the trust, the payment to the school may be income of that child as the payment is "for the benefit of the beneficiary" (definition of "Beneficiary income" in section 226(1)).

If the child is not a beneficiary the arrangement will shift the tax liability for the income to the school beneficiary. If the school beneficiary is an approved charitable organisation, and the arrangement is tax effective, the income will be tax exempt.

The parents are likely to execute the scheme by settling property or the right to income on the trust. For such a settlement to be tax effective the parents must comply with sections 96 and 99 of the Income Tax Act 1976.

Section 96 provides that a settlement of property or the right to income will not be valid for tax purposes if the parents settle the property or the right to income on the trust for less than seven years and retain ownership of or control over the property during that time. The parents cannot assign the right to income from personal services or a future interest in partnership assets.

Section 99(2) states that if tax avoidance is a purpose or effect (not being merely incidental) of an arrangement the arrangement will be void. Tax avoidance occurs when an arrangement alters a person's tax, relieves a person from paying tax, or avoids, reduces or postpones a person's tax liability. Unless there is evidence to the contrary, the arrangement described here will be caught under these tax avoidance rules.

When a settlement of property or the right to income breaches section 96, or when section 99 applies, the settlor is deemed to derive the income as if he or she had not made the settlement. In other words, the tax liability for the income settled on the trust and distributed to the school reverts to the settlor / parents.

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The settlement of the property or the right to income on the trust will still be legally effective, even though the transfer of tax liability is not.

The settlement of the property or right to income on the trust by the parents may constitute a gift to the trust. Section 72 of the Estate and Gift Duties Act 1968 provides an exemption from gift duty when a gift (which is not excessive, having regard to the legal or moral obligation of the donor) is made for the maintenance or education of a relative of the donor. This exemption will only apply to the settlement on the trust if the trust deed only authorises the trustees to distribute the income of the trust for the purposes of the education and maintenance of relatives of the donor. If the trust deed contains wider purposes for which the trustees can, in their discretion, distribute the trust's income, the section 72 exemption will not apply.

If the section 72 exemption does not apply there will be gift duty liability if either of the parents have donated gifts, to all donees, totalling in excess of $27,000 during a twelve month period. Under section 79(1) of the Estate and Gift Duties Act, each parent must provide a gift statement to the Commissioner if he or she has made dutiable gifts during the year which exceed an aggregate value of $12,000.

Status of estate's income when will is being contested

Section 226(1) - Interpretation of "Beneficiary income": A trustee has asked if income derived by an estate is trustee or beneficiary income when the will of a deceased person is being contested.

For trust income to be assessable as beneficiary income, the income must vest absolutely in the beneficiary's interest during the year in which the trust derives it. Alternatively, the income must be paid or applied to or for the benefit of the beneficiary during the income year in which the trust derived it, or within six months after the end of that year.

The income in this case does not satisfy the latter provisions. It is not beneficiary income, therefore it is trustee income.

Domestic Purposes Beneficiary not eligible for GMFI

Section 374E - Guaranteed Minimum Family Income Credit of Tax: A solo parent worked 20 hours a week in paid employment, and also received a Domestic Purposes Benefit from the New Zealand Income Support Service. She asked whether she would be entitled to receive a Guaranteed Minimum Family Income Credit of Tax (GMFI).

Section 374E(3) describes the calculation of GMFI for a single person, who is also a "qualifying person" during any specified period.

"Qualifying person" is defined in section 374E(1). It means:

"in relation to any specified period, means any person where, throughout the specified period, -

(a) That person is aged 16 years or over; and

(b) That person is the principal caregiver in respect of one or more dependent children; and

(c) Either -

  (i) That person has been both resident and present in New Zealand for a continuous period of 12 months at any time; or

(ii) Each of the dependent children referred to in paragraph (b) of this definition is both resident and present in New Zealand;-

but does not include any person who, during the specified period, receives an income-tested benefit, a veteran's pension, or a war widows mother's allowance."

In this case, the taxpayer received the Domestic Purposes Benefit, which is an income-tested benefit. Accordingly, she is excluded from the definition of a "qualifying person", so she is not entitled to GMFI.

Book royalties not subject to withholding tax

Income Tax (Withholding Payments) Regulations 1979: A New Zealand author was about to receive royalties from within New Zealand for a book she had written. She asked if those royalties would be subject to withholding tax.

Under section 65(2)(h), all royalties are assessable income.

Royalties paid for a book are not covered by the Income Tax (Withholding Payments) Regulations 1979, so withholding tax should not be deducted from royalties paid to a New Zealand resident. (Activities which are subject to the Withholding Tax Regulations are listed on the back of the IR 13 Withholding Tax Deduction Certificate.)

However, if the author was not a New Zealand tax resident, the payment would be subject to Non-Resident Withholding Tax at a flat rate of 15 percent on the gross payment (unless varied by a Double Taxation Agreement).

Goods and Services Tax Act 1985

Tax invoice requested but not received

Section 24(1) Tax invoice: A taxpayer has asked if Inland Revenue is able to help a purchaser obtain a tax invoice from a supplier. The taxpayer had requested a tax invoice from the supplier three weeks earlier, but had not yet received it.

Section 24(1) requires a supplier to provide a tax invoice within 28 days of a request from the recipient. A supplier who fails to provide a tax invoice within this time commits an offence under section 62(1)(l), and is liable to a fine of up to $2,000 upon conviction for a first offence.

In this case, Inland Revenue was unable to help the purchaser at this stage as the 28-day period had not expired. When the 28-day period does expire, Inland Revenue may exercise its statutory powers to enforce compliance with the legislation. Inland Revenue's procedures for enforcing section 24(1) are set out on page 4 of TIB Volume Three, No.3 (October 1991).

Purchasers who have difficulty in obtaining a tax invoice should contact Taxpayer Services at their local Inland Revenue Office.

Student Loan Scheme Act 1992

Employers: Debt priority of student loan repayment deductions

Section 90 - Debt ranking of repayment deductions: An employer who has been adjudged bankrupt has made source deductions of student loan repayments from employee wages. As these are owed to Inland Revenue, the employer wishes to know the ranking of that debt.

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Section 90 amends the Insolvency Act 1967. It specifies the priority of debt for student loan repayment deductions when an employer is adjudged bankrupt (if an individual) or goes into receivership or liquidation (if a company). In either of these situations, the repayment deduction loan debt is a preferential debt that ranks equal to PAYE.

Companies Act 1955

Tax refunds for dissolved companies

Section 337 - Property of dissolved company: A company has recently been struck off the company register. The major shareholders have asked if they are able to claim a tax refund that is owing to the former company.

If Inland Revenue owes an unclaimed refund to a company which is registered under the Companies Act 1955 but subsequently struck off, under section 337 of the Companies Act we must forward it to the Public Trustee. The refund is issued to the Public Trustee as the company is no longer a legal person and cannot claim any refund from Inland Revenue. Property of a struck-off company becomes the property of the Crown, and the Public Trustee deals with it under section 79(1)(c) of the Public Trust Office Act 1957.

Inland Revenue is not required to ascertain who is entitled to the refund, so we advised the shareholders to make their application to the Public Trustee.

The company in this question was registered under the Companies Act 1955. The position of a company which is registered under the Companies Act 1993 will be the subject of an item at a later date.

Income Tax (Deemed Rate of Return 1993-94 Income Year) Regulations 1994

The Income Tax (Deemed Rate of Return 1993-94 Income Year) Regulations 1994 were made on 26 September 1994. The regulations prescribe a deemed rate of 10.3% which will be used to calculate foreign investment fund (FIF) income under the deemed rate of return calculation method in the FIF regime. This rate will apply for the 1993-94 income year.

Under the FIF regime, any income that a foreign entity earns on behalf of a New Zealand resident will be taxed on a current basis, as long as the New Zealand investor does not have a controlling interest in the entity. The deemed rate of return method is set out in section 245RE of the Income Tax Act 1976. It is one of the four methods for calculating FIF income.

Under the deemed rate of return method, FIF income is determined by multiplying the value of a person's FIF interest by a percentage which is prescribed by regulation. That percentage is the "deemed rate of return". The Income Tax (Deemed Rate of Return 1993-94 Income Year) Regulations 1994 prescribe a rate of 10.3% which will apply for all types of FIF investments for which a taxpayer uses the deemed rate of return method. This includes interests in superannuation and life insurance policies.

How the deemed rate of return is set

The deemed rate of return is set annually by taking the interest rate of five-year Government Stock and adding a margin of 4%. The five-year Government Stock rate is determined by taking the average of the rates on 30 June, 30 September, 31 December and 31 March of each year. If no rate is available on these days, the rate on the next available business day is used.

Using the above procedure, the rate for five-year Government Stock for the 1994 income year was 6.3%. This means the deemed rate of return for the 1994 income year is 10.3% (6.3% plus 4%).

This procedure will also be used to set the deemed rate of return in future income years.

Legal decisions - case notes

This section of the Tax Information Bulletin sets out brief notes of recent tax decisions made by the Taxation Review Authority, the High Court, the Court of Appeal and the Privy Council.

We have given each case a rating as a reader guide to its potential importance.

• • • • •	Important decision
• • • •	Interesting issues considered
• • •	Application of existing law
• •	Routine
•	Limited interest

We've given full references to each case, including the citation details where it has already been reported. Details of the relevant Act and section will help you to quickly identify the legislation at issue. Short case summaries and keywords deliver the bare essentials for busy readers. The notes also outline the principal facts and grounds for the decision. Where possible, we have indicated if an appeal will be forthcoming.

These case reviews do not set out Inland Revenue policy, nor do they represent our attitude to the decision. These are purely brief factual reviews of decisions for the general interest of our readers.

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Payments to employees who relocate

Rating: • • • • •

Case: Shell New Zealand Limited v CIR, CA 294/93, (1994) 16 NZTC 11,303

Act: Income Tax Act 1976, sections 2, 6(1), 65(2)(b), and 338(1)

Keywords: *Source deduction payment, monetary remuneration, in respect of or in relation to employment*

Summary: The Court of Appeal held that lump sum payments which an employer made to transferring employees were paid in respect of or in relation to the employees' employment. The payments were source deduction payments from which the employer was required to make tax deductions.

Facts: The employer made lump sum payments to employees who were transferred at its request in the course of employment. The payments were described as capital loss payments and additional mortgage assistance payments. They compensated the employees for any financial disadvantage suffered in having to shift houses as a result of the transfer. The employer treated the payments as reimbursements which were not taxable to the employees. It did not make tax deductions from the payments.

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Decision: The Court of Appeal held that the payments were extra emoluments made in respect of or in relation to employment. It said that the words "in respect of or in relation to" had a very wide meaning and were wider than the similar words used in the UK Income Tax Act 1952 (profit arising from employment). The payments were in respect of or in relation to employment because they were paid to an employee only because he or she was an employee. In addition they were paid to compensate for the losses incurred in having to change the employee's place of residence in order to take up a new position in the company.

The Court held that the payments were monetary remuneration, assessable to the employee under section 65(2)(b), and source deduction payments from which the employer was liable to deduct tax.

The Court said that different considerations may apply in the case of the reimbursement of expenses incurred by the employee in the discharge of his or her employment duties (e.g. the reimbursement of removal expenses on transfer), but that this was not such a case.

Comment: The taxpayer will not be appealing this decision.

Whether a GST input tax credit can be claimed on the purchase of a farm dwelling

Rating: • • • • •

Case: Coveney v CIR, Dooley v CIR, Swain & Adams v CIR

Act: Goods and Services Tax Act 1985, sections 2(1), 5(14), 10(18), 21 and 36A.

Keywords: *Test cases, input tax credit, apportionment, principal purpose*

Summary: The High Court heard these three test cases together. The issue was whether the purchasers can claim input tax on the total price of a farm, or only on the farmland.

The High Court found that the purchase of the farm was one supply, and there is nothing in the Act providing for apportionment of input tax in this situation. The principal purpose of acquiring the property was to make taxable supplies.

Facts: Registered taxpayers had each purchased a farm property, including a dwelling, from unregistered sellers. They then claimed an input tax credit calculated on the whole of the purchase price. Section 2 provides that an input tax credit is available when a supply to a registered person is not a taxable supply, and it is of any secondhand goods.

The Commissioner disallowed the part of the claim that related to the farm dwelling. The taxpayers objected.

Counsel for the Commissioner submitted that:

- The Act contemplates apportionment for input tax purposes. This is evident from the wording of the definition of "input tax" and is in accordance with the scheme of the Act. Counsel for the Commissioner also relied on sections 5(14),10(18) and 21 to show that the Act contemplated apportionment.
- The principal purpose of acquiring the land and farm buildings was to make taxable supplies and thus an input tax credit is available. The farm dwelling was not acquired for the principal purpose of making taxable supplies and the Commissioner was correct in disallowing input tax credits.
- Each transaction involved several supplies and the fact that the property changed hands for one consideration and pursuant to one contract does not help the objectors.

Decision: The High Court held that in each case there was one supply, that of the farm as a whole. Because there was only one supply, the proviso to paragraph (c) of the definition of input tax in section 2 could not be used to apportion consideration (and thus input tax credits) between different supplies. Section 2 requires that the principal purpose of acquiring the property is to make taxable supplies. There is a recognition in the definition that there are, or may be, subsidiary purposes that do not include the making of taxable supplies. Section 21 was neutral in this situation.

Sections 5(14) and 10(18) deal expressly with taxable supplies, but different rules apply to input tax on secondhand goods. These rules could not be used as a basis for determining that apportionment should apply in other circumstances.

The principal purpose of acquiring the properties in question was to make taxable supplies. Therefore, for the reasons outlined, the Commissioner was incorrect in disallowing the input tax credit relating to the dwellings.

Comment: Inland Revenue has not decided whether to appeal this decision.

Whether life insurance agent's expenditure is deductible

Rating: • •

Case: TRA 93/143

Act: Income Tax Act 1976, sections 104, 106(1)(j)

Keywords: *Deductible expenses, private expenditure*

Summary: The issue before the Court was the deductibility of various expenses that the objector had incurred. He had been an independent contractor for a life insurance company. The expenses fell into three main categories - legal, entertainment, and other expenses incurred after the objector had ceased business dealings with the insurance company. The Commissioner had disallowed the deductions. The taxpayer objected.

Facts: The objector worked as an independent contractor as a life insurance agent for a life insurance company. He was suspended from the company on 6 December 1990. The parties terminated the formal contract on 17 December 1990. The objector claimed deductions for business expenses, but his claims were disallowed.

The deductions were:

$2,004	legal fees
$12,899	entertainment expenses
$3,564.09	other expenses incurred after the agency with the insurance company was at an end - interest on car, office agency, household expenses, telephone rentals.

There was also a dispute over the proportion of interest on a loan for a vehicle which was deductible as a business expense for the period before 17 December 1990.

Decision: The TRA found that:

- The legal fee was not deductible, as the objector had not shown that it was an expense which was part of the objector's life insurance agency business. It related to a criminal prosecution, and was a private expense.
- A third of the entertainment expenses were deductible as proper business expenditure.

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- The expenses incurred after severance from the insurance company were not incurred in the course of any existing business or income earning activity, so they were not deductible.

  The TRA considered that the parties could reach agreement on the appropriate adjustment for interest on the loan for a business vehicle.

Comments: Inland Revenue is not appealing this decision.

Whether penal tax charged was excessive

Rating: • •

Case: TRA 93/87

Act: Income Tax Act 1976, sections 369 and 423

Keywords: *Penal tax*

Summary: The taxpayer was charged penal tax of 75% of deficient tax deductions for failing to account for PAYE deductions. The issue was whether penal tax was chargeable and if so whether the rate imposed was excessive. The penal tax was reduced to 25% of deficient tax deductions.

Facts: The taxpayer and his father were equal shareholders in a private company which carried on a carrying business from April 1984 until late 1992, when it went into liquidation. Over the period January to December 1991 the company was late every month in accounting for PAYE deductions. Under section 369 of the Income Tax Act 1976 the Commissioner assessed penal tax at the rate of 150% being split evenly between the taxpayer and the company. The objection was to the penal tax charged to the taxpayer, as the company had gone into liquidation. The company had previously been given warnings and had been charged penal tax on previous occasions when it had been late in accounting for tax deductions. Judge Barber took into account the taxpayer's cash flow problems, his management and accounting inexperience and the fact that there was no real personal profit to the offending.

Decision: Judge Barber found that penal tax was chargeable. He also found that the total penal tax should be reduced to 75% of the deficient tax and that the taxpayer, as shareholder and director of the company, should be charged with one third of that, namely 25%.

Comments: Inland Revenue is not appealing this decision.

Whether penal tax charged was excessive

Rating: • •

Case: TRA 93/133

Act: Income Tax Act 1976, sections 369 and 423

Keywords: *Penal tax*

Summary: The taxpayer was charged penal tax of 200% of deficient tax deductions for failing to account for PAYE deductions. The issue was whether the penal tax charged was excessive. Judge Barber found that it was excessive and reduced the penal tax to 75% of deficient tax.

Facts: The taxpayer was a horse trainer who employed five people. The taxpayer failed to account for PAYE deductions for the months from May 1990 to September 1991. The taxpayer had previously had warnings and had been charged penal tax for failing to account for PAYE deductions by the due date.

Judge Barber took into account the taxpayer's financial difficulties, the fact that the taxpayer believed tax credits were owing to him, his co-operation and lack of deviousness, his payment of various penalties for previous offending and that he had not offended since September 1991.

Decision: Judge Barber found that the penal tax charged was excessive and reduced the penal tax to 75% of the deficient tax.

Comments: Inland Revenue is not appealing this decision.

Upcoming TIB articles

In the next few months we'll be releasing policy statements on these topics in the Tax Information Bulletin:

- Salaries and qualifying payments paid to partners in a partnership
- Resident withholding tax on interest paid to partners
- Shareholder elections under the qualifying company rules when shares are sold to an existing shareholder
- Inability of ports to zero-rate supplies of storage facilities to non-residents
- Deductibility of amounts paid for failure to repair and maintain leased land
- When Inland Revenue can grant relief from payment of tax in cases of financial hardship
- Treatment of dividend imputation credits and dividend withholding payment credits in the hands of trustees and beneficiaries
- GST and secondhand goods
- Meaning of terms "own" and "acquired" for depreciation purposes
- GST and rates apportionment

We'll publish these statements as soon as we've finished consulting with commentators outside Inland Revenue.

List of Inland Revenue booklets

This list shows all of Inland Revenue's information booklets as at the date of this Tax Information Bulletin. There is also a brief explanation of what each booklet is about.

Some booklets could fall into more than one category, so you may wish to skim through the entire list and pick out the booklets that you need. You can get these booklets from any IRD office.

For production reasons, the TIB is always printed in a multiple of eight pages. We will include an update of this list at the back of the TIB whenever we have enough free pages.

For people in business

A guide to Inland Revenue audits (IR 297) March 1994

For business people and investors. It explains what is involved if you are audited by Inland Revenue; who is likely to be audited; your rights during and after the audit, and what happens once an audit is completed.

ACC premiums 1994/95

Explains the ACC employer premium, and gives the premium rates payable by employers and self-employed people. ACC publish this book.

Approved issuer levy (IR 291A) May 1994

For taxpayers who pay interest to overseas lenders. Explains how you can pay interest to overseas lenders without having to deduct NRWT.

Consolidation (IR 4E) March 1993

An explanation of the consolidation regime, which allows a group of companies to be treated as a single entity for tax purposes.

Depreciation (IR 260) April 1994

Explains how to calculate tax deductions for depreciation on assets used to earn assessable income.

Employers' guide (IR 184) 1994

Explains the tax obligations of anyone who is employing staff, and explains how to meet these obligations. Anyone who registers as an employer with Inland Revenue will receive a copy of this booklet.

Entertainment expenses (IR 268) April 1993

Covers the tax treatment of business entertainment expenses, under the rules applying from 1 April 1993.

Fringe benefit tax guide (IR 409) June 1992

Explains fringe benefit tax obligations of anyone who is employing staff, or companies which have shareholder-employees. Anyone who registers as an employer with Inland Revenue will receive a copy of this booklet.

GST - do you need to register? (GST 605) May 1994

A basic introduction to goods and services tax, which will also tell you if you have to register for GST.

GST guide (GST 600) 1994 Edition

An in-depth guide which covers almost every aspect of GST. Everyone who registers for GST gets a copy of this booklet. It is quite expensive for us to print, so we ask that if you are only considering GST registration, you get the booklet "GST - do you need to register?" instead.

Imputation (IR 274) February 1990

A guide to dividend imputation for New Zealand companies.

Inland Revenue employers' tax calendar (IR 24E) 1994

A list of all the more common tax due dates that employers have to remember. If you have a balance date other than 31 March, you may find the full tax calendar (IR 24) more useful.

Inland Revenue tax calendar (IR 24) 1994

A complete list of all the tax due dates. It covers everything from filing tax returns to the due dates for non-resident Student Loan repayments.

Non-resident withholding tax payers' guide (IR 291)Jul 1994

A guide for people or institutions who pay interest, dividends or royalties to people who are not resident in New Zealand.

PAYE deduction tables

- Four-weekly and monthly (IR 184Y) 1994
- Weekly and fortnightly (IR 184X) 1994

Tables that tell employers the correct amount of PAYE to deduct from their employees' wages.

Qualifying companies (IR 4PB) October 1992

An explanation of the qualifying company regime, under which a small company with few shareholders can have special tax treatment of dividends, losses and capital gains.

Resident withholding tax on dividends (IR 284) Oct 1993

A guide for companies, telling them how to deduct RWT from the dividends that they pay to their shareholders.

Resident withholding tax on interest (IR 283) March 1993

A guide to RWT for people and institutions which pay interest.

Running a small business? (IR 257) Jan 1994

An introduction to the tax obligations involved in running your own business.

Surcharge deduction tables (IR 184NS) 1994

PAYE deduction tables for employers whose employees are having national super surcharge deducted from their wages.

Tax help for sprouting young businesses (IR 257C)

A promotional pamphlet for Inland Revenue's Small Business Tax Information Service.

Taxpayer Audit (IR 298)

An outline of Inland Revenue's Taxpayer Audit programme. It explains the units that make up this programme, and what type of work each of these units does.

For non-profit groups

Charitable organisations (IR 255) May 1993

Explains what tax exemptions are available to approved charities and donee organisations, and the criteria which an organisation must meet to get an exemption.

Clubs and societies (IR 254) June 1993

Explains the tax obligations which a club, society or other non-profit group must meet.

Education centres (IR 253) June 1994

Explains the tax obligations of schools and other education centres. Covers everything from kindergartens and kohanga reo to universities and polytechnics.

Gaming machine duty (IR 680A) February 1992

An explanation of the duty which must be paid by groups which operate gaming machines.

Grants and subsidies (IR 249) June 1994

An guide to the tax obligations of groups which receive a subsidy, either to help pay staff wages, or for some other purpose.

GST for non-profit bodies (GST 605A) September 1992

Tells non-profit groups whether they'll need to register for GST, and on what activities they must account for GST.

For individual taxpayers

Dealing with Inland Revenue (IR 256) April 1993

Introduction to Inland Revenue, written mainly for individual taxpayers. It sets out who to ask for in some common situations, and lists taxpayers' basic rights and obligations when dealing with Inland Revenue.

Estate and gift duties (IR 634) Nov 1991

An explanation of estate and gift duties, written for individual people rather than solicitors or legal firms. Estate duty has been repealed since this book was written.

Interest earnings and your IRD number (IR 283L) September 1991

Explains the requirement for giving to your IRD number to your bank or anyone else who pays you interest.

International tax guide (IR 275) June 1989

Deals with controlled foreign companies, foreign investment funds, and people who have interests in them.

IR 56 taxpayer handbook (IR 56B) April 1994

A booklet for part-time private domestic workers, embassy staff, nannies, overseas company reps and Deep Freeze base workers who make their own PAYE payments.

Koha (IR 278) August 1991

A guide to payments in the Maori community - income tax and GST consequences.

New Zealand tax residence (IR 292) April 1994

An explanation of who is a New Zealand resident for tax purposes.

Objection procedures (IR 266) March 1994

Explains how to make a formal objection to a tax assessment, and what further options are available if you disagree with Inland Revenue.

Provisional tax (IR 289) March 1994

People whose end-of-year tax bill is over $2,500 must generally pay provisional tax for the following year. This booklet explains what provisional tax is, and how and when it must be paid.

Putting your tax affairs right (IR 282) May 1994

Explains the advantages of telling Inland Revenue if your tax affairs are not in order, before we find out in some other way. This book also sets out what will happen if someone knowingly evades tax, and gets caught.

Resident withholding tax on investments (IR 279) April 1993

An explanation of RWT for people who receive interest or dividends.

Retiring allowances and redundancy payments (IR 277) June 1994

An explanation of the tax treatment of these types of payments.

Self-employed or an employee? (IR 186) April 1993

Sets out Inland Revenue's tests for determining whether a person is a self-employed contractor or an employee. This determines what expenses the person can claim, and whether s/he must pay ACC premiums.

Special tax codes (IR 23G) January 1994

Information about getting a special "flat rate" of tax deducted from your income, if the regular deduction rates don't suit your particular circumstances.

Stamp duties (IR 665) June 1992

Explains what duty is payable on transfers of real estate and some other transactions. Written for individual people rather than solicitors and legal firms.

Student Loan repayments - everything you need to know (SL 2) January 1994

A more in-depth guide to making student loan repayments.

Superannuitants and surcharge (IR 259) January 1994

A guide to the surcharge for national superannuitants who also have other income.

Tax facts for income-tested beneficiaries (IR 40C) September 1992

Vital information for anyone who receives an income-tested benefit and also has some other income.

Problem Resolution Service (IR 287) November 1993

An introduction to Inland Revenue's Problem Resolution Service. You can use this service if you've already used Inland Revenue's usual services to sort out a problem, without success.

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Child Support booklets

Child Support - a guide for bankers (CS 66) August 1992
An explanation of the obligations that banks may have to deal with for Child Support.

Child Support - a parent's guide (CS 1) March 1992
An in-depth explanation of Child Support, both for custodial parents and parents who don't have custody of their children.

Child Support - an introduction (CS 3) March 1992
A brief introduction to Child Support.

Child Support - does it affect you? (CS 50)
A brief introduction to Child Support in Maori, Cook Island Maori, Samoan, Tongan and Chinese.

Child Support - how to approach the Family Court (CS 51) July 1994
Explains what steps people need to take if they want to go to the Family Court about their Child Support.

Child Support - the basics - a guide for students
A basic explanation of how Child Support works, written for mainly for students. This is part of the school resource kit "What about the kids?"

Your guide to the Child Support formula (CS 68)
Explains the components of the formula and gives up-to-date rates.

Child Support administrative reviews (CS 69A)
Explains how the administrative review process works, and contains an application form.

Due dates reminder

November

5 Large employers: PAYE deductions and deduction schedules for period ended 31 October 1994 due. *(We will accept payments received on Monday 7 November as on time.)*

7 Provisional tax and/or Student Loan interim repayments: first 1995 instalment due for taxpayers with July balance dates.
Second 1995 instalment due for taxpayers with March balance dates.
Third 1995 instalment due for taxpayers with November balance dates.

1994 end-of-year payments of income tax, Student Loans and ACC premiums due for taxpayers with December balance dates.

Non-IR 5 taxpayers: annual income tax returns due for taxpayers with July balance dates (SL 9 to be attached for Student Loan borrowers).

QCET payments due for companies with December balance dates with elections effective from the 1995 income year.

20 Large employers: PAYE deductions and deduction schedules for period ended 15 November 1994 due.

Small employers: PAYE deductions and deduction schedules for period ended 31 October 1994 due.

Gaming machine duty return and payment for month ended 31 October 1994 due.

RWT on interest deducted during October 1994 due for monthly payers.

RWT on dividends deducted during October 1994 due.

Non-resident withholding tax (or approved issuer levy) deducted during October 1994 due.

(For all payments due on 20 November, we will treat payments received on Monday 21 November as on time.)

30 GST return and payment for period ended 31 October 1994 due.

December

5 Large employers: PAYE deductions and deduction schedules for period ended 30 November 1994 due.

7 Provisional tax and/or Student Loan interim repayments: first 1995 instalment due for taxpayers with August balance dates.
Second 1995 instalment due for taxpayers with April balance dates.
Third 1995 instalment due for taxpayers with December balance dates.

1994 end-of-year payments of income tax, Student Loans and ACC premiums due for taxpayers with January balance dates.

Non-IR 5 taxpayers: annual income tax returns due for taxpayers with August balance dates (SL 9 to be attached for Student Loan borrowers).

QCET payments due for companies with January balance dates with elections effective from the 1995 income year.

20 Large employers: PAYE deductions and deduction schedules for period ended 15 December 1994 due.

Small employers: PAYE deductions and deduction schedules for period ended 30 November 1994 due.

Gaming machine duty return and payment for month ended 30 November 1994 due.

RWT on interest deducted during November 1994 due for monthly payers.

RWT on dividends deducted during November 1994 due.

Non-resident withholding tax (or approved issuer levy) deducted during November 1994 due.

31 Non-resident Student Loan repayments: Third instalment of 1995 Student Loan non-resident assessment due. *(We will accept any payments received on Wednesday 4 January 1995 as in time.)*

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