
Policy statements renamed and restructured

The Commissioner of Inland Revenue issues non-binding statements as well as binding public rulings. These non-binding statements, which in the past have been called “policy statements”, have covered the Commissioner’s view of the law and the Commissioner’s administrative practice.

Starting with this TIB the Commissioner will no longer issue policy statements. Instead, the following three new types of non-binding statements will be issued when appropriate:

- **Interpretation statements:** These statements will set out the Commissioner’s view of the law in relation to a particular set of circumstances in cases when a binding public ruling cannot be issued or is inappropriate. The Commissioner’s statement on the issues arising out of the Court of Appeal decision in the *Newman* case is an example of the type of statement which might, in future, be issued as an interpretation statement, as are situations when a particular type of arrangement cannot be conveniently identified.
- **Interpretation guidelines:** These statements will discuss the Commissioner’s approach to the interpretation of a general area of law. A statement on the Commissioner’s approach to sham transactions or the interpretation of the general anti-avoidance provision

in the Income Tax Act would be an example of the type of statement that might be issued as an interpretation guideline.

- **Standard practice statements:** These statements will describe how the Commissioner will, in practice, exercise a statutory discretion or deal with practical issues arising out of the administration of the Inland Revenue Acts. A statement on how the Commissioner will exercise the discretion to allow taxpayers to adopt non-standard balance dates is an example of a statement dealing with the exercise of a statutory discretion. The Commissioner’s statement on the rates that will be accepted as “reimbursement” for the use of a motor vehicle is an example of a statement on a practical issue arising out of the administration of the revenue acts, i.e. the cost of running of a particular type of motor vehicle is a question of fact, not of law.

In keeping with the new structure of Inland Revenue, interpretation statements and interpretation guidelines will generally be issued by the Rulings Unit of the Adjudication & Rulings Business Group. This is the same area that issues binding public rulings.

Standard practice statements, which deal with practical and operational issues, will generally be issued by the Operations Business Group.

Tax deductions from real estate salespersons

Correction to an earlier item

In TIB Volume Three, No. 8 (April 1992) at page 11 we discussed the taxation of real estate salespersons. On page 14 of that item we stated that commission payments to a real estate salesperson are subject to the Income Tax (Withholding Payments) Regulations 1979, regardless of whether the salesperson is an independent contractor or an employee paid on a commission only basis. This statement is not correct.

When a real estate salesperson does not enter into an express agreement with the real estate licensee to the effect that the salesperson is an independent contractor, the salesperson will generally be an employee of the licensee. Any payments to the salesperson-employee, whether of salary, retainer, or commission, are payments under a contract of employment. Payments made

in relation to a contract of employment are salary or wages liable to PAYE deductions.

Regulation 4(2)(a) of the Income Tax (Withholding Payments) Regulations 1979 states that payments that are salary or wages are not withholding payments. Therefore, the payments to the salesperson-employee are not withholding payments, even if the salesperson-employee is paid on a commission only basis.

When the salesperson enters into an express agreement with the licensee to the effect that the he or she is an independent contractor, the salesperson is engaged by the licensee under a contract for services. Payments covered by the agreement are withholding payments and are subject to the Income Tax (Withholding Payments) Regulations 1979.

ACC employer premium classification bulletins - local government

Introduction

The Accident Rehabilitation and Compensation Insurance Corporation (ACC) propose from time to time to issue employer premium classification bulletins to set out their policy for the classification of particular industry groups.

ACC recently released the first such bulletin, which deals with Local Government. Details of the policy are reproduced below.

Coverage

The term local government refers to regional councils and territorial authorities established under the Local Government Act 1974 and the Auckland Regional Services Trust, and includes trading and other entities established by those councils and authorities.

There are three general types of structure used by local government :

- the *contracting out* model, under which third-party contractors provide most services to the local authority
- the *local authority trading enterprise (LATE)* model, under which the trading activities of the local government are in separate subsidiaries owned by the local government
- The *divisional* model, under which operational units, although not separated into legal entities, may tender for work against independent contractors.

This policy applies to each of these structures.

Application

This policy first relates to the classification of local government authorities on employee earnings for the year ended 31 March 1995 and subsequent years.

Legislation

The Accident Rehabilitation and Compensation Insurance (Employment Premiums) Regulations 1995 and subsequent years.

Policy

Activities carried out by local government are to be classified according to the external service performed, if that service is delivered to the community or to some other external "purchaser". To qualify for multiple classifications, the criteria for separate activities, record keeping, management and operation, must be fulfilled.

If this criteria cannot be met, all activities must be classified according to the highest rated classification (generally a *construction* classification). Services or outputs consumed internally may not be separately classified.

The classification unit *Local Government Operation (not elsewhere classified)* is for community services not covered by any other classification. The rules for multiple classifications must be met for this classification to be used (unless it is the highest rated classification in single classification cases). Services in this classification include :

- administration of the authority (if not assigned to a single or related group of external services)
- animal control (licensing, pound etc.)
- environmental, food and water standards control
- finance and computer services (if not assigned to a single external service)
- health regulation and inspection
- land transport planning (if not related to a specific transport service)
- elected members (IR 12 payments - note that IR 13 payments should be excluded as recipients pay their own ACC premiums)
- rates collection
- resource management information, monitoring, and consents
- strategic planning (if not related to a specific external service)
- town planning and building inspection
- vehicle parking regulation and enforcement

If a local authority qualifies to use multiple activities it must include administration and support services staff in the classification unit for the activity to which their services contribute. If the services are contributed to more than one activity, then the general rule is that those staff are to be included in the highest rated activity. The exception is that from the 1996 year, if 5% or less of an employee's earnings are in a high-rated activity, then the whole of those earnings can be classified in the appropriate lower-rated activity.

Administration

The ACC is currently reviewing the classifications used by local authorities nation wide. It will provide details to Inland Revenue, as agent for the Corporation, to issue amended premium assessments if these are necessary.

If you have any questions about this policy, please contact:

Premium Assessments
ACC
Head Office
P O Box 242
WELLINGTON

Phone 0800 222 776
Fax (04) 472 2812

If you have any questions about amended premium assessments, please contact:

Corporates Unit
Inland Revenue
National Office
P O Box 2198
WELLINGTON

Phone (04) 472 1032
Fax (04) 802 7207

Premium classifications most likely to be used by local government

Classification unit name	Alternative activity descriptions	Classification unit number
Hunting and trapping	Culling of wild animals Possum hunting or trapping Rabbit hunting or trapping	02200
Forestry		03010
Services to forestry	Fire-fighting (forestry) Forest planting	03030
Gravel and sand quarrying		14110
Construction material mining	Aggregate quarrying Road fill quarrying	14190
Electricity distribution	Meter reading service-electrical	36101
Gas supply	Meter reading service-gas LPG distribution (through mains) LPG reforming	36200
Water supply	Dams or reservoirs operation Meter reading service-water	37010
Sewerage and drainage services	Stormwater drainage systems operation	37020
Construction (roads & bridges)	Asphalt surfacing Road sealing Road maintenance	41210
Non-building construction	Flood control systems construction River works construction Sports field construction	41220
Petroleum product wholesaling	LPG dealing (bulk or containers)	45210
Short distance bus transport		61220
Parking services	Car park operation	66110
Services to water transport	Marina operation	66220
Port operators	Wharf facility leasing Wharf provision	66230
Services to air transport	Airport operation Airport services	66300
Residential property operation (excluding construction)	Apartments, flats, or houses, renting or leasing	77110
Business management services	Efficiency advisory service Tourism development consultancy	78550
Pest control services	Weed control services (industrial or domestic)	78650
Local government operation (n.e.c.)	<i>See explanation in main text</i>	81130
Defence (Civil)		82000

continued on page 4

from page 3

Classification unit name	Alternative activity descriptions	Classification unit number
Libraries	Archival service	92100
Museums	Art gallery	92200
Recreational parks and gardens	Animal park National Park Picnic ground Tourist caves Wildlife sanctuary	92390
Performing arts venues		92520
Sports grounds and facilities	Golf course or practice range Swimming pool operation	93120
Zoological and Botanic Gardens	Aquarium Aviary	93210
Cemetery	Crematorium	95240
Street Cleaning Services		96341
Waste Disposal Services	Collection of waste for recycling Garbage collection Rubbish dump or tip operation	96340

Non-resident contractor enquiries - change of IRD contact address

In TIB Volume Six, No.14 we included an item on non-resident contractors' withholding tax, exemption certificates and reduced rate certificates.

Inland Revenue's address for non-resident contractor enquiries has now changed. If you have any questions on this subject please contact:

Team Leader
Oil and Minerals Portfolio
Corporates Unit
Inland Revenue
P O Box 2198
WELLINGTON

If you're telephoning us, ask for the Non-Resident Contractors Team, Oil and Minerals Portfolio, (04) 472 1032. The fax number is (04) 384 5883.

Legislation and determinations

This section of the TIB covers items such as recent tax legislation, accrual and depreciation determinations, livestock values and changes in FBT and GST interest rates.

Marquees - draft depreciation determination

Introduction

In TIB Volume Seven, No.13 (May 1996) at page 20 we set out the depreciation rate which currently applies to marquees, and published an exposure draft general depreciation determination which proposed to set two new asset classes and rates based on two types of fabric.

We received two submissions on the exposure draft. In response to those submissions we have consulted more widely with taxpayers in the industry. The Commissioner now proposes to issue a general determination which sets asset classes and depreciation rates that are different to those originally envisaged. The second draft determination proposes to:

- delete the existing asset class “Marquees” and general depreciation rate of 15% diminishing value (“DV”) and 10% straight-line (“SL”) from the “Leisure” industry category
- insert a new asset class “Marquees (canvas roofs & walls, ropes/ tie-downs when permanently attached)” with a general depreciation rate of 22% DV and 15.5% SL into the “Leisure” industry category
- insert a new asset class “Marquees (roofs & walls of fabrics other than canvas, ropes/ tie-downs when permanently attached)” with a general depreciation rate of 33% DV and 24% SL into the “Leisure” industry category. “Fabrics other than canvas” include PVC, sailcloth, and any other fabrics of which marquees are made.
- insert a new asset class “Marquee poles (wood)” with a general depreciation rate of 12% DV and 8% SL into the “Leisure” industry category.
- insert a new asset class “Marquee poles & frames (metal)” with a general depreciation rate of 18% DV and 12.5% SL into the “Leisure” industry category
- insert a new asset class “Marquee poles & frames (metal with integral winching mechanism)” with a general depreciation rate of 22% DV and 15.5% SL into the “Leisure” industry category.
- insert a new asset class “Marquee accessories (other than poles & frames)” with a general depreciation rate of 33% DV and 24% SL into the “Leisure” industry category. This asset class includes ropes and tie-downs which are not permanently attached, pegs, and linings for the inside of a roof. Lighting does not fall under this asset class, but falls under “Lighting and accessories” under the “Audio and Video Recording Studios and Professional Photography” industry category with an estimated useful life (“EUL”) of 5 years, 33% DV and 24% SL.
- insert the six new asset classes above into the “Hire Equipment (Where on short term hire of 1 month or less only)” asset category with the same EULs and depreciation rates.

The Commissioner proposes to issue the determination to apply for the 1996-97 income year (rather than the 1995-96 income year as proposed in the first draft) because the due date for filing 1995-96 business tax returns has now passed.

The draft determination is reproduced below. The proposed new depreciation rates are based on the EULs set out in the draft determination below and residual values of 13.5% of cost.

Exposure draft - General Depreciation Determination DEPX

This determination may be cited as “Determination DEPX: Tax Depreciation Rates General Determination Number X”.

1. Application

This determination applies to taxpayers who own the asset classes listed below.

This determination applies to “depreciable property” other than “excluded depreciable property” for the 1996/97 and subsequent income years.

2. Determination

Pursuant to section EG 4 of the Income Tax Act 1994 I hereby amend Determination DEP1: Tax Depreciation Rates General Determination Number 1 (as previously amended) by:

- Deleting from the “Leisure” industry category the general asset class, estimated useful life, and diminishing value and straight-line depreciation rates listed below:

continued on page 6

from page 5

Leisure	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Marquees	12.5	15	10

- Inserting into the “Leisure” industry category the general asset classes, estimated useful lives, and diminishing value and straight-line depreciation rates listed below:

Leisure	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Marquees (canvas roofs and walls, ropes/tie-downs when permanently attached)	8	22	15.5
Marquees (roofs and walls of fabrics other than canvas, ropes/tie-downs when permanently attached)	5	33	24
Marquee poles (wood)	15.5	12	8
Marquee poles & frames (metal)	10	18	12.5
Marquee poles & frames (metal with integral winching mechanism)	8	22	15.5
Marquee accessories (other than poles and frames)	5	33	24

- Inserting into the “Hire Equipment (Where on short term hire of 1 month or less only)” asset category the general asset classes, estimated useful lives, and diminishing value and straight-line depreciation rates listed below:

Hire Equipment (Where on short term hire of 1 month or less only)	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Marquees (canvas roofs and walls, ropes/tie-downs when permanently attached)	8	22	15.5
Marquees (roofs and walls of fabrics other than canvas, ropes/tie-downs when permanently attached)	5	33	24
Marquee poles (wood)	15.5	12	8
Marquee poles & frames (metal)	10	18	12.5
Marquee poles & frames (metal with integral winching mechanism)	8	22	15.5
Marquee accessories (other than poles and frames)	5	33	24

3. Interpretation

In this determination, unless the context otherwise requires, expressions have the same meaning as in the Income Tax Act 1994.

If you wish to make a submission on these proposed changes please write to:

Assistant General Manager
 Adjudication & Rulings
 National Office
 Inland Revenue Department
 PO Box 2198
 WELLINGTON

We need to receive your submission by 12 September 1996 if we are to take it into account in the final determination.

Wintering pads (rubber) - depreciation

Provisional Depreciation Determination PROV5

This determination may be cited as "Determination PROV5: Tax Depreciation Rates Provisional Determination Number 5".

1. Application

This determination applies to "depreciable property" other than "excluded depreciable property" for the 1996/97 and subsequent income years.

2. Determination

Pursuant to section EG 10 (1)(b) of the Income Tax Act 1994 I hereby amend Determination DEP1: Tax Depreciation Rates General Determination Number 1 (as previously amended) by:

- Inserting into the "Agriculture - Horticulture and Aquaculture" industry category the provisional asset class, estimated useful life, and diminishing value and straight-line depreciation rate listed below:

Agriculture, Horticulture and Aquaculture	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Wintering pads (rubber)	6.66	26	18

3. Interpretation

In this determination, unless the context otherwise requires, expressions have the same meaning as in the Income Tax Act 1994.

This determination is signed by me on the 23rd day of July 1996.

Jeff Tyler

Assistant General Manager (Adjudication & Rulings)

Rifles, shotguns, pistols, firearms, fastening guns (explosive) - draft depreciation determination

For depreciation purposes, rifles and pistols are currently listed under the "Leisure" category only, with depreciation rates based on an estimated useful life (EUL) of 10 years. No firearms are listed under the "Agriculture, Horticulture and Aquaculture" category or in any other category.

The Commissioner considers that the following asset classes and depreciation rates currently apply:

- Rifles used in the agriculture, horticulture and aquaculture industry (including by pest destruction contractors): asset class "Rifles" under the "Leisure" category; EUL of 10 years.
- Shotguns used in the agriculture, horticulture and aquaculture industry (including by pest destruction contractors): asset class "Agriculture & horticulture machinery (not specified)" under the "Agriculture, Horticulture and Aquaculture" category; EUL of 15.5 years.

The Commissioner proposes to issue a general depreciation determination to make these changes:

- Insert four new asset classes for rifles and shotguns into the "Agriculture, Horticulture and Aquaculture" industry category based on amount of use (i.e. number of rounds fired per year).
- Delete the asset classes "Pistols" and "Rifles" from the "Leisure" industry category.
- Insert an asset class "Firearms" into the "Leisure" industry category. This asset class will cover rifles, pistols, shotguns and any other firearms.
- Insert a new asset class "Fastening guns (explosive)" into the "Contractors, Builders and Quarrying" industry category and also into the "Timber and Joinery Industries" industry category. For example, a Ramset gun is a brand of a "Fastening gun (explosive)".

The draft determination is reproduced below. The proposed new depreciation rates are based on the EULs set out in the draft determination below, and residual values of 13.5% of cost.

continued on page 8

from page 7

Exposure draft - General Depreciation Determination DEPX

This determination may be cited as "Determination DEP[x]: Tax Depreciation Rates General Determination Number X".

1. Application

This determination applies to taxpayers who own the asset classes listed below.

This determination applies to "depreciable property" other than "excluded depreciable property" for the 1996-97 and subsequent income years.

2. Determination

Under section EG 4 of the Income Tax Act 1994 I hereby amend Determination DEP1: Tax Depreciation Rates General Determination Number 1 (as previously amended) by:

- Inserting into the "Agriculture, Horticulture and Aquaculture" industry category the general asset classes, estimated useful lives, and diminishing value and straight-line depreciation rates listed below:

Agriculture, Horticulture and Aquaculture	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Rifles (less than 10,000 rounds per year)	6.66	26	18
Rifles (greater than 10,000 rounds per year)	2	63.5	63.5
Shotguns (less than 50,000 rounds per year)	6.66	26	18
Shotguns (greater than 50,000 rounds per year)	2	63.5	63.5

- Deleting from the "Leisure" industry category the general asset classes, estimated useful lives, and diminishing value and straight-line depreciation rates listed below:

Leisure	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Pistols	10	18	12.5
Rifles	10	18	12.5

- Inserting into the "Leisure" industry category the general asset class, estimated useful life, and diminishing value and straight-line depreciation rates listed below:

Leisure	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Firearms	10	18	12.5

- Inserting into the "Contractors, Builders and Quarrying" industry category the general asset class, estimated useful life, and diminishing value and straight-line depreciation rates listed below:

Contractors Building and Quarrying	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Fastening gun (explosive)	3	50	40

- Inserting into the "Timber and Joinery Industries" industry category the general asset class, estimated useful life, and diminishing value and straight-line depreciation rates listed below:

Timber and Joinery Industries	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Fastening gun (explosive)	3	50	40

3. Interpretation

In this determination, unless the context otherwise requires, expressions have the same meaning as in the Income Tax Act 1994.

If you wish to make a submission on these proposed changes please write to:

Assistant General Manager
Adjudication & Rulings
Inland Revenue Department National Office
PO Box 2198
WELLINGTON

We need to receive your submissions by 13 September 1996 if we are to take them into account in finalising the determination.

Undersea maintenance equipment - general depreciation determination

The Commissioner has issued a general depreciation determination which inserts a new industry category called "Undersea maintenance (where equipment used under saltwater or on a maintenance barge on salt water)" into DEP1. The determination sets 25 new asset

classes, including a default asset class. The determination applies from the 1996-97 income year.

The determination is reproduced below. The new depreciation rates are based on the estimated useful lives set out below and residual values of 13.5% of cost.

General Depreciation Determination DEP17

This determination may be cited as "Determination DEP17: Tax Depreciation Rates General Determination Number 17".

1. Application

This determination applies to taxpayers who own the asset classes listed below.

This determination applies to "depreciable property" other than "excluded depreciable property" for the 1996/97 and subsequent income years.

2. Determination

Pursuant to section EG 4 of the Income Tax Act 1994 I hereby amend Determination DEP1: Tax Depreciation Rates General Determination Number 1 (as previously amended) by:

- Inserting the industry category "Undersea maintenance (where equipment used under salt water or on a maintenance barge on salt water)" and the general asset classes, estimated useful lives, and diminishing value and straight-line depreciation rates listed below:

Undersea maintenance (where equipment used under salt water or on a maintenance barge on salt water)	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Undersea maintenance equipment (not specified)	4	40	30
Chain blocks	5	33	24
Diesel pump	5	33	24
Dive compressor	5	33	24
Dive tanks	10	18	12.5
Diving panel	5	33	24
Drilling power pack	5	33	24
Diving helmet	10	18	12.5
Drilling rig	5	33	24
Drilling platform	1	100	100
Hammer (pneumatic/ hydraulic)	5	33	24

continued on page 10

from page 9

Undersea maintenance (where equipment used under salt water or on a maintenance barge on salt water)	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Hydraulic hoses		Expense	
Jetting pump	5	33	24
Lay flat hose	3	50	40
Lift bags	1	100	100
Mooring weights	10	18	12.5
Outboard motors	5	33	24
Regulators	5	33	24
Ropes	1	100	100
Shackles	5	33	24
Tools (loose)	1	100	100
Umbilical	1	100	100
Video camera	5	33	24
Wet suit	1	100	100
Winches	10	18	12.5

3. Interpretation

In this determination, unless the context otherwise requires, expressions have the same meaning as in the Income Tax Act 1994.

This determination is signed by me on the 19th day of August 1996.

Jeff Tyler

Assistant General Manager (Adjudication & Rulings)

Binding rulings

This section of the TIB contains binding rulings that the Commissioner of Inland Revenue has issued recently.

The Commissioner can issue binding rulings in certain situations. Inland Revenue is bound to follow such a ruling if a taxpayer to whom the ruling applies calculates tax liability based on it.

For full details of how binding rulings work, see our information booklet "Binding Rulings" (IR 115G) or the article on page 1 of TIB Volume Six, No.12 (May 1995) or Volume Seven, No.2 (August 1995). You can order these publications free of charge from any Inland Revenue office.

Tower Retirement Investment Ltd's "FuturePlan"

Product Ruling BR Prd 96/18

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

Taxation Law

All legislative references are to the Income Tax Act 1994.

This Ruling applies in respect of sections JB 2 and JB 3, and in particular, the word "pension" in section JB 3 (1).

The Arrangement to which this Ruling applies

The arrangement is the encashment of units by members ("withdrawals") of a superannuation scheme entitled "FuturePlan". The FuturePlan was established by Tower Corporation by trust deed dated 20 July 1989 (at this time the scheme was known as the Tower Personal Superannuation Plan). The original trust deed has subsequently been amended several times. The original trust deed and its amendments have been consolidated into one single deed dated 30 June 1995. In July 1996, the product specifications were also amended to give members of the scheme the ability to request a withdrawal of a dollar amount as an option instead of a particular number of units.

Tower Retirement Investment Ltd acts as the investment manager and administration manager of the FuturePlan. The FuturePlan is established principally for the purpose of providing retirement benefits to its members.

Members of the FuturePlan make contributions to the Plan and these contributions are paid or allocated to various Investment Funds. One of these Funds is called the Capital Protected Fund (i.e. at maturity, the member is guaranteed his or her contributions plus interest less withdrawals and management fees). The remainder of the Funds are unitised with the value of the units capable of variation, depending on market conditions and earnings' performance.

Over the life of the investment, members are entitled to "cash up" units that represent their investment in any of the Investment Funds. The entitlement to encash units has the following characteristics:

- Members can nominate a particular number of units to be cashed at any time, or specify a dollar amount of units to be cashed.
- The right to encash units is an entitlement held by the members. Members cannot be required to or prevented from exercising this right (although the calculation of the amount payable and the actual payment may be delayed in certain circumstances outlined in the trust deed).

continued on page 12

from page 11

- Members will notify the Trustee of the Plan in writing of their intention to encash a stated number of units for a stated period. The notification will also specify the frequency of payments.
- Members exercising their entitlement to cash up a particular number of units for a stated number of months or years may subsequently alter, revoke, or extend their original election.

Assumptions made by the Commissioner

This Ruling is based on the assumption that the withdrawal procedures proceed as set out in the trust deed and as summarised in the description of the arrangement above.

This Ruling also assumes that withdrawals made by a member relying on this Ruling are not:

- Made at a frequency greater than four times in any twelve-month period at three-monthly intervals.
- Amounts withdrawn from funds invested in the Capital Protected Fund.

These assumptions mean that members cannot rely on this Ruling where they have made withdrawals at a frequency greater than four times in any twelve-month period at three-monthly intervals, or where they have made withdrawals from funds invested in the Capital Protected Fund.

How the Taxation Law applies to the Arrangement

Subject in all respects to the assumptions set out above, encashment receipts by members of the FuturePlan will not constitute a “pension” for the purposes of section JB 3 (1) and will accordingly not constitute “other income” for the purposes of section JB 2 (1).

The period for which the Ruling applies

This Ruling will apply for the period from 31 July 1996 to 31 March 2000.

This Ruling is signed by me on the 31st day of July 1996.

Martin Smith

General Manager (Adjudication & Rulings)

Tower Retirement Investment Ltd’s “FreedomPlan”

Product Ruling - BR Prd 96/19

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

Taxation Law

All legislative references are to the Income Tax Act 1994.

This Ruling applies in respect of sections JB 2 and JB 3, and in particular, the word “pension” in section JB 3 (1).

The Arrangement to which this Ruling applies

The arrangement is the encashment of units (“withdrawals”) by members of a superannuation scheme entitled “FreedomPlan”. The FreedomPlan was established by Tower Retirement Investment Limited by trust deed dated 28 February

1994 (at this time the scheme was known as the Tower Superannuation Portfolio). The original trust deed was subsequently amended. The original trust deed and the amendment have been consolidated into one single deed. In July 1996, the product specifications were also amended to give members of the scheme the ability to request a withdrawal of a dollar amount as an option instead of a particular number of units.

Tower Retirement Investment Ltd acts as the investment manager and administration manager of the FreedomPlan. The FreedomPlan is established principally for the purpose of providing retirement benefits to its members.

Members of the FreedomPlan make contributions to the Plan and these contributions are paid or allocated to various Investment Funds. One of these Funds is called the FDM Capital Protected Fund (i.e. at maturity, the member is guaranteed his or her contributions plus interest less withdrawals and management fees). The remainder of the Funds are unitised with the value of the units capable of variation, depending on market conditions and earnings' performance.

Over the life of the investment, members are entitled to "cash up" units that represent their investment in any of the Investment Funds. The entitlement to encash units has the following characteristics:

- Members can nominate a particular number of units to be cashed at any time, or specify a dollar amount of units to be cashed.
- The right to encash units is an entitlement held by the members. Members cannot be required to or prevented from exercising this right (although the calculation of the amount payable and the actual payment may be delayed in certain circumstances outlined in the trust deed).
- Members will notify the Trustee of the Plan in writing of their intention to encash a stated number of units for a stated period. The notification will also specify the frequency of payments.
- Members exercising their entitlement to cash up a particular number of units for a stated number of months or years may subsequently alter, revoke, or extend their original election.

Assumptions made by the Commissioner

This Ruling is based on the assumption that the withdrawal procedures proceed as set out in the trust deed and as summarised in the description of the arrangement above.

This Ruling also assumes that withdrawals made by a member relying on this Ruling are not:

- Made at a frequency greater than four times in any twelve-month period at three-monthly intervals.
- Amounts withdrawn from funds invested in the FDM Capital Protected Fund.

These assumptions mean that members cannot rely on this Ruling where they have made withdrawals at a frequency greater than four times in any twelve-month period at three-monthly intervals, or where they have made withdrawals from funds invested in the FDM Capital Protected Fund.

How the Taxation Law applies to the Arrangement

Subject in all respects to the assumptions above, encashment receipts by members of the FreedomPlan will not constitute a "pension" for the purposes of

continued on page 14

from page 13

section JB 3 (1) and will accordingly not constitute “other income” for the purposes of section JB 2 (1).

The period for which this Ruling applies

This Ruling will apply for the period from 31 July 1996 to 31 March 2000.

This Ruling is signed by me on the 31st day of July 1996.

Martin Smith

General Manager (Adjudication & Rulings)

Tower Retirement Investment Ltd’s “InvestDirect Plan” Product Ruling - BR Prd 96/20

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

Taxation Law

All legislative references are to the Income Tax Act 1994.

This Ruling applies in respect of sections JB 2 and JB 3, and in particular, the word “pension” in section JB 3 (1).

The Arrangement to which this Ruling applies

The arrangement is the encashment of units by members of a superannuation scheme entitled “InvestDirect Plan”. The InvestDirect Plan was established by Tower Retirement Investment Ltd by trust deed dated 30 June 1995. In July 1996, the product specifications were also amended to give members of the scheme the ability to request a withdrawal of a dollar amount as an option instead of a particular number of units.

Tower Retirement Investment Ltd acts as the investment manager and administration manager of the InvestDirect Plan. The InvestDirect Plan is established principally for the purpose of providing retirement benefits to its members.

Members of the InvestDirect Plan make contributions to the Plan and these contributions are paid or allocated to various Investment Funds. One of these Funds is called the Secure Growth Fund (i.e. at maturity, the member is guaranteed his or her contributions plus interest less withdrawals and management fees). The remainder of the Funds are unitised with the value of the units capable of variation, depending on market conditions and earnings’ performance.

Over the life of the investment, members are entitled to “cash up” units that represent their investment in any of the Investment Funds. The entitlement to encash units has the following characteristics:

- Members can nominate a particular number of units to be cashed at any time, or specify a dollar amount of units to be cashed.
- The right to encash units is an entitlement held by the members. Members cannot be required to or prevented from exercising this right (although the calculation of the amount payable and the actual payment may be delayed in certain circumstances outlined in the trust deed).
- Members will notify the Trustee of the Plan in writing of their intention to encash a stated number of units for a stated period. The notification will also specify the frequency of payments.

- Members exercising their entitlement to cash up a particular number of units for a stated number of months or years may subsequently alter, revoke, or extend their original election.

Assumptions made by the Commissioner

This Ruling is based on the assumption that the withdrawal procedures proceed as set out in the trust deed and as summarised in the description of the arrangement above.

This Ruling also assumes that withdrawals made by a member relying on this Ruling are not:

- Made at a frequency greater than four times in any twelve-month period at three-monthly intervals.
- Amounts withdrawn from funds invested in the Secure Growth Fund.

These assumptions mean that members cannot rely on this Ruling where they have made withdrawals at a frequency greater than four times in any twelve-month period at three-monthly intervals, or where they have made withdrawals from funds invested in the Secure Growth Fund.

How the Taxation Law applies to the Arrangement

Subject in all respects to the assumptions set out above, encashment receipts by members of the InvestDirect Plan will not constitute a "pension" for the purposes of section JB 3 (1) and will accordingly not constitute "other income" for the purposes of section JB 2 (1).

The period for which this Ruling applies

This Ruling will apply for the period from 31 July 1996 to 31 March 2000.

This Ruling is signed by me on the 31st day of July 1996.

Martin Smith
General Manager (Adjudication & Rulings)

Earlier binding rulings withdrawn and replaced

Withdrawal of binding rulings BR Prd 95/7, BR Prd 95/8 and BR Prd 95/9

In compliance with section 91FJ(2) of the Tax Administration Act 1994, the Commissioner hereby notifies the withdrawal of product rulings 95/7, 95/8, and 95/9. The following notices will appear in the *Gazette* of 5 September 1996:

Notice of withdrawal of product ruling

1. This is a notice of a withdrawal of a product ruling made under section 91FJ of the Tax Administration Act 1994.
2. Product ruling 95/7 is hereby withdrawn.
3. Product ruling 95/7 originally applied to the calculation of New Zealand superannuitant surcharge for the 1996 to 1999 income years, and notice of its making appeared in the *Gazette* of 30 November 1995.

4. Product ruling 95/7 is withdrawn on and from 5 September 1996.

Martin Smith
General Manager (Adjudication & Rulings)

Notice of withdrawal of product ruling

1. This is a notice of a withdrawal of a product ruling made under section 91FJ of the Tax Administration Act 1994.
2. Product ruling 95/8 is hereby withdrawn.
3. Product ruling 95/8 originally applied to the calculation of New Zealand superannuitant surcharge for the 1996 to 1999 income years, and notice of its making appeared in the *Gazette* of 30 November 1995.

continued on page 16

from page 15

4. Product ruling 95/8 is withdrawn on and from 5 September 1996.

Martin Smith
General Manager (Adjudication & Rulings)

Notice of withdrawal of product ruling

1. This is a notice of a withdrawal of a product ruling made under section 91FJ of the Tax Administration Act 1994.
2. Product ruling 95/9 is hereby withdrawn.
3. Product ruling 95/9 originally applied to the calculation of New Zealand superannuitant surcharge for

the 1996 to 1999 income years, and notice of its making appeared in the *Gazette* of 30 November 1995.

4. Product ruling 95/9 is withdrawn on and from 5 September 1996.

Martin Smith
General Manager (Adjudication & Rulings)

Product rulings 96/18, 96/19, and 96/20, which are published in this Bulletin replace respectively the withdrawn product rulings 95/7, 95/8, and 95/9.

Mico Wakefield Ltd's trade loyalty programme

Product ruling BR Prd 96/21

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

Taxation Law

All legislative references are to the Income Tax Act 1994 unless otherwise stated.

This Ruling applies in respect of sections BB 1 and BB 4 (a) and BB 4 (d).

The Arrangement to which this Ruling applies

The Arrangement is the exchange of points, accrued to customers of Mico Wakefield Limited ("Mico"), for travel and associated accommodation benefits ("travel benefits").

Mico has implemented a trade loyalty programme entitled "Mico Air Points" (the "Programme").

Certain customers of Mico have been invited to join the Programme. "Customers" for the purposes of the arrangement will generally be tradespeople, e.g., plumbers, electricians and builders, who treat Mico as their preferred supplier. These persons will in most cases be sole traders. The Programme is subject to the following terms and conditions:

- In conjunction with the member, Mico will establish the individual sales figure for the last 12 months. From this figure a base will be agreed for the next 12-month period.
- An agreed percentage of actual and referred sales through nominated accounts will be transferred into the Mico Programme. Mico will add to this an additional 1% on sales. Where a member's sales exceeds the base, Mico will pay an additional 1% on the incremental sales.
- Each year, in conjunction with the member, Mico will establish a new 12-monthly base.
- Each month, Mico will advise all members of their points for the month, along with the year to date position.
- Total points listed in the catalogue for air travel/accommodation will be subject to increases/decreases and currency fluctuations at the time of booking. In most cases, special conditions and time periods will apply. A booking fee of 5% will be added to the final amount of the travel cost. All travel will be

booked through Mico's nominated Travel Wholesaler and Mico will always quote the points on an individual trip by trip basis.

- Individual targets will be kept confidential between Mico and the member at all times.
- Mico reserves the right to cancel, adjust or modify the scheme at any time, provided one month's notification is advised in writing.
- Members can purchase product at normal price from any Mico store and the purchase figure (exclusive of GST) of goods acquired through agreed nominated accounts will be used to calculate the points that go into the scheme. Mico will advise members of the total number of points for the month which relate to purchases from any Mico store. An annual \$50 (inclusive of GST) membership fee will be payable on joining. Mico reserves the right to membership.
- To qualify for points, accounts must be paid by the end of the month following the month of purchase.
- Any tax liability arising from the scheme will be the sole responsibility of the member and Mico make no warranty or representation in relation to such tax liability.

The customer is not entitled to redeem the points for cash or any other benefits. In addition, the travel benefits cannot be redeemed for cash or any other benefits.

Assumptions made by the Commissioner

This Ruling is based on the assumptions that:

- The points can only be redeemed for the travel benefits in accordance with the Programme; and
- The travel benefits cannot be redeemed by the recipient for money or any other benefit; and
- The points and the travel benefits cannot be assigned to any other party.

How the Taxation Law applies to the Arrangement

Subject in all respects to the assumptions set out above, the Taxation Law applies to the Arrangement as follows:

- The receipt of points under the Programme by a customer participating in the arrangement will not be income for the purposes of sections BB 1 and BB 4 (a) and BB 4 (d); and
- The receipt of the travel benefits by a customer participating in the arrangement will not be income for the purposes of sections BB 1 and BB 4 (a) and BB 4 (d).

The period for which this Ruling applies

This Ruling will apply for the period from 13 August 1996 to 31 March 1999.

This Ruling is signed by me on the 13th day of August 1996.

Martin Smith
General Manager (Adjudication & Rulings)

Questions we've been asked

This section of the TIB 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 1994

Prizes paid in instalments - correction

Section CB 9 (f), (section 61(59), Income Tax Act 1976) - Other exempt income: In the item, "Prizes paid in instalments - assessability to recipient" in TIB Volume Seven, No.12 (April 1996) we stated that a prize option of \$18,000 a year for life, paid under an annuity policy from an insurance company, is assessable income.

In our answer we should have said that because the annuity payments are payable for the life of the winner, they qualify as annuities paid in respect of a policy of "life insurance" offered or entered into by a life insurer in New Zealand. Such annuities are exempt income under section CB 9 (f).

We apologise for any confusion caused by this error, and thank those correspondents who pointed it out to us.

Goods and Services Tax Act 1985

GST on supplies from unregistered partners to registered partnerships

Section 57 - Unincorporated bodies: A partnership is registered for GST. Recently it bought land (i.e. there was a sale for consideration) from one of the partners who is not registered for GST. The partnership wants to claim a second-hand goods input tax deduction for the land.

Section 57 allows unincorporated bodies (including partnerships, joint ventures, and trusts) to register as single entities. Its effect is that a partnership is a separate entity from the partners of the partnership for GST purposes.

The partnership can claim a secondhand goods input tax deduction for the land under section 20(3) if all the following criteria are met:

- The land is acquired by the partnership for the purposes of making taxable supplies.
- The partnership pays the partner for the land (an input tax deduction can only be claimed under section 20(3)(a)(ia) to the extent that payment has been made for the supply).
- The land becomes partnership property.

As the partner and the partnership are associated persons, the consideration for the supply is deemed to be the lesser of the purchase price and the open market value of the land.

If the partnership was using the land before the sale, the partner must consider whether she was carrying on the taxable activity of land rental and if she has any liability to register for GST.

The partnership must return output tax on any subsequent supply of the land.

Accident Rehabilitation and Compensation Insurance Act 1992

Loss of earnings insurance policy payouts - whether liable to ACC premiums

Sections 101,102, and 114 - Premiums payable: A taxpayer has asked whether benefits paid out under loss of earnings insurance policies (policies which provide for benefits calculated with reference to earnings or profits lost by the insured as a result of incapacitation) are liable to ACC earner premiums or employer premiums.

ACC employer premiums are payable by an employer on the amount of “earnings” paid to an employee under section 101, and are payable by every earner who has “earnings other than as an employee” under section 102.

ACC earner premiums are payable by every earner on the “earnings” of that person under section 114.

“Earnings” is defined in the Accident Rehabilitation and Compensation Insurance (Earnings Definitions) Regulations 1992 as:

earnings as an employee and earnings other than as an employee.

Benefits received under loss of earnings insurance policies do not fall within either category because:

- “Earnings as an employee” includes all source deduction payments under the Income Tax Act 1994 (other than any withholding payments), and any income which is deemed to be derived otherwise than from source deduction payments and which is deemed to be derived by an irregular payment employee under regulation 3 of the Regulations.
- “Earnings other than as an employee” includes any assessable income derived by a person for the purposes of the Income Tax Act 1994 which is dependent on that person’s personal exertions and which would cease as a consequence of that person suffering the incapacity.

As neither of these categories includes a benefit paid out under a loss of earnings insurance policy, ACC employer premiums or earner premiums are not payable on the amount of any such benefit.

Legal decisions - case notes

This section of the TIB 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'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.

Supply of services subject to GST

Case: TRA No 93/21

Act: Goods and Services 1985 - section 11(2)(e)

Keywords: *Zero rated services*

Summary: The TRA found that there was a supply of services (repairs) directly in connection with movable personal property (the repaired vehicles). Thus the objector is unable to rely on the zero rating provisions of section 11(2)(e).

Facts: The objector purchased products including motor vehicles from its parent company. Under the sale and purchase agreements the parent company warrants the products to the objector in respect of parts and labour.

The objector then sells the vehicles to independent dealers who in turn sell them to the public. Each vehicle is sold with a warranty provided by the objector (which is wider than the warranty provided by the parent company). The objector's agreement with the dealers is that if the vehicle is repaired under a warranty the objector will reimburse the dealer. The objector then registers a claim with its parent company under the warranty, and the parent company generally pays the objector a lesser sum.

Decision: The TRA decided that two services were provided - the supply of contract services by the dealer to the objector (including the repairs to the vehicle) and the supply of repairs by the objector to the parent company (thereby releasing the parent from its contractual repair obligations). Hence the warranty payments were made by the parent to the objector in consideration for the objector repairing the defective products. This supply of services is not zero rated.

Time limits for appeals

Case: TRA No 95/013, TRA No 95/015

Act: Taxation Review Authority Act - section 26 (1)(a) & (2)

Keywords: *Appeals to the High Court - adherence to time limits*

Summary: The decision of the TRA confirms that strict time limits under section 26(2) of the Act must be adhered to.

Facts: The objector failed to lodge an appeal to the High Court within 30 days of the date of the Authority's decision, being the statutory time limit. The cause of the delay was due to circumstances beyond the objector's control.

Decision: The TRA followed the decision of *TLC Services Limited*, in which the Court held that the policy aspects concerning strict time limits must be acknowledged and certainty in commercial affairs maintained.

Following this decision, the TRA enforced the time limits contained in section 26. The objector's application was declined despite the fact that the delay was beyond their control and likely to cause them considerable hardship.

Payment for surrendering option to purchase - capital receipt

Case: Union Steamship Company of New Zealand Limited v Commissioner of Inland Revenue

Keywords: *Option to purchase - payment for surrendering*

Summary: The Court of Appeal found that the payment made to the Company for surrendering its option to purchase was to be regarded as capital in nature rather than revenue.

Facts: The objector chartered three ships from a carrying company which in turn held the ships by way of a long term charter from a shipping company. The objector had an option to purchase those ships from the shipping company. However, the objector agreed to surrender its option to purchase in return for a payment of \$1.5 million; \$750,000 from the shipping company (paid over three annual instalments) and a further \$750,000 from the carrying company (by way of deduction from the charter fees for the ships over the next three years).

In calculating a tax loss for the 1975 year, the objector claimed deductions for the unadjusted charter fee to the carrying company (without reference to the \$250,000 reduction in that fee) and further calculated the loss without reference to the \$250,000 payment from the shipping company. It accounted for the total \$1.5 million payment in that year as "non-taxable income". In the Court of Appeal the Commissioner contended that \$1.5 million was a revenue receipt, being a gain made in the ordinary course of carrying on the objector's business.

Decision: The Court held that the reduction in fees paid to the carrying company was to be regarded as a set off of payment of that capital sum against those fees, rather than a discount or reduction in the fees. Therefore the payment was capital in nature.

Land subdivision profits - assessability

Case: TRA No 94/19, TRA No 94/20

Keywords: *Profits from subdivision, assessable income*

Act: Income Tax Act 1976 - section 67(4)(e) & (9)

Summary: The TRA found that the two subdivisions were not capable of being worked as economic units. Therefore the objectors were liable for income tax on the subdivision profits.

Facts: The objectors are partners in a farming partnership which subdivided its farm property into nine lots. Immediately before the subdivision the land was used by the objectors for farming. This case concerns the assessability of two of the lots, for income tax. The objectors submitted that these lots were capable of being worked as economic units (in satisfaction of section 67(9)(b)) by converting them to chicory pasture. This would exempt the profits from assessability under section 67(4)(e) and (f).

Decision: The Authority followed the Court of Appeal judgment of *Bruhns* and applied the capability test to the land, when determining the expression 'economic unit'. Upon application of the test, the Authority decided that the land did not have the present capacity of an economic unit and would not achieve this status without a degree of modification. In addition it decided that the land was not capable of yielding a reasonable standard of living to the owners without them resorting to secondary employment.

Further, since the land was not capable of making a due return on the capital invested, section 67(9)(b) had not been satisfied.

Finally, the Authority decided that the evidence did not show that the land was sold primarily and principally for the purpose of its use in any farming or agricultural business, as required under section 67(9)(c).

Booklets available from Inland Revenue

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.

The TIB is always printed in a multiple of four pages. We will include an update of this list at the back of the TIB whenever we have enough free pages.

General information

Binding rulings (IR 115G) - May 1995: Explains binding rulings, which commit Inland Revenue to a particular interpretation of the tax law once given.

How to tell if you need a special tax code (IR 23G): Information about getting a special "flat rate" of tax deducted from your income, if the regular deduction rates don't suit your particular circumstances.

Income from a Maori Authority (IR 286A) - Feb 1996: For people who receive income from a Maori authority. Explains which tax return the individual owners or beneficiaries fill in and how to show the income.

Inland Revenue audits (IR 297) - May 1995: 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.

Koha (IR 278) - Aug 1991: A guide to payments in the Maori community - income tax and GST consequences.

Maori Community Officer Service (IR 286) - Apr 1996: An introduction to Inland Revenue's Maori Community Officers and the services they provide.

New Zealand tax residence (IR 292) - Apr 1994: An explanation of who is a New Zealand resident for tax purposes.

Objection procedures (IR 266) - Mar 1994: Explains how to make a formal objection to a tax assessment, and what further options are available if you disagree with Inland Revenue.

Overseas social security pensions (IR 258) - Jul 1996: Explains how to account for income tax in New Zealand if you receive a social security pension from overseas.

Problem Resolution Service (IR 287) - Nov 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.

Provisional tax (IR 289) - Jun 1996: 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.

Rental income (IR 264) - Apr 1995: An explanation of taxable income and deductible expenses for people who own rental property. This booklet is for people who own one or two rental properties, rather than larger property investors.

Reordered tax acts (IR 299) - Apr 1995: In 1994 the Income Tax Act 1976 and the Inland Revenue Department Act 1974 were restructured, and became the Income Tax Act 1994, the Tax Administration Act 1994 and the Taxation Review Authorities Act 1994. This leaflet explains the structure of the three new Acts.

Self-employed or an employee? (IR 186) - Apr 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.

Stamp duty and gift duty (IR 665) - Mar 1995: Explains what duty is payable on transfers of real estate and some other transactions, and on gifts. Written for individual people rather than solicitors and legal firms.

Student Loans - how to get one and how to pay one back (SL 5) - 1996: We've published this booklet jointly with the Ministry of Education, to tell students everything they need to know about getting a loan and paying it back.

Superannuitants and surcharge (IR 259) - Jul 1996: A guide to the surcharge for national superannuitants who also have other income.

Tax facts for income-tested beneficiaries (IR 40C) - Jun 1996: Vital information for anyone who receives an income-tested benefit and also has some other income.

Taxes and duties (IR 295) - May 1995: A brief introduction to the various taxes and duties payable in New Zealand.

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.

Trusts and estates - (IR 288) - May 1995: An explanation of how estates and different types of trusts are taxed in New Zealand.

Visitor's tax guide - (IR 294) - Nov 1995: A summary of New Zealand's tax laws and an explanation of how they apply to various types of visitors to this country.

Business and employers

ACC premium rates - Mar 1996: There are two separate booklets, one for employer premium rates and one for self-employed premium rates. Each booklet covers the year ended 31 March 1996.

Depreciation (IR 260) - Apr 1994: Explains how to calculate tax deductions for depreciation on assets used to earn assessable income.

Electronic payments to Inland Revenue (IR 87A) - May 1995: Explains how employers and other people who make frequent payments to Inland Revenue can have these payments automatically deducted from their bank accounts.

Employer's guide (IR 184) - 1996: 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) - May 1995: When businesses spend money on entertaining clients, they can generally only claim part of this expenditure as a tax deduction. This booklet fully explains the entertainment deduction rules.

First-time employer's guide (IR 185) - April 1996: Explains the tax obligations of being an employer. Written for people who are thinking of taking on staff for the first time.

Fringe benefit tax guide (IR 409) - Nov 1994: 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) - March 1996
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.

IR 56 taxpayer handbook (IR 56B) - Apr 1996: 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.

PAYE deduction tables - 1997

- Weekly and fortnightly (IR 184X)

- Four-weekly and monthly (IR 184Y)

Tables that tell employers the correct amount of PAYE to deduct from their employees' wages from 1 July 1996.

Record keeping (IR 263) - Mar 1995: A guide to record-keeping methods and requirements for anyone who has just started a business.

Retiring allowances and redundancy payments (IR 277) - Jun 1996: An explanation of the tax treatment of these types of payments.

Running a small business? (IR 257) Jan 1994: An introduction to the tax obligations involved in running your own business.

Smart business (IR 120) - Jul 1996: An introduction to tax obligations and record-keeping for small businesses and non-profit organisations.

Surcharge deduction tables (IR 184NS) - 1997: PAYE deduction tables for employers whose employees are having NZ Super surcharge deducted from their wages.

Taxes and the taxi industry (IR 272) - Feb 1996: An explanation of how income tax and GST apply to taxi owners, drivers, and owner-operators.

Resident withholding tax and NRWT

Approved issuer levy (IR 291A) - May 1995: For taxpayers who pay interest to overseas lenders. Explains how you can pay interest to overseas lenders without having to deduct NRWT.

Non-resident withholding tax guide (IR 291) - Mar 1995: A guide for people or institutions who pay interest, dividends or royalties to people who are not resident in New Zealand.

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) - Mar 1993: A guide to RWT for people and institutions which pay interest.

Resident withholding tax on investments (IR 279) - Jun 1996: An explanation of RWT for people who receive interest or dividends.

Non-profit bodies

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) - Jun 1993: Explains the tax obligations which a club, society or other non-profit group must meet.

Education centres (IR 253) - Jun 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) - Feb 1992: An explanation of the duty which must be paid by groups which operate gaming machines.

Grants and subsidies (IR 249) - Jun 1994: An guide to the tax obligations of groups which receive a subsidy, either to help pay staff wages, or for some other purpose.

Company and international issues

Company amalgamations (IR 4AP) - Feb 1995: Brief guidelines for companies considering amalgamation. Contains an IR 4AM amalgamation declaration form.

Consolidation (IR 4E) - Mar 1993: An explanation of the consolidation regime, which allows a group of companies to be treated as a single entity for tax purposes.

Controlled foreign companies (IR 275) - Nov 1994: Information for NZ residents with interests in overseas companies. (More for larger investors, rather than those with minimal overseas investments)

Foreign dividend withholding payments (IR 274A) - Mar 1995: Information for NZ companies that receive dividends from overseas companies. This booklet also deals with the attributed repatriation and underlying foreign tax credit rules.

Foreign investment funds (IR 275B) - Oct 1994: Information for taxpayers who have overseas investments, but who don't have a controlling interest in the overseas entity.

Imputation (IR 274) - Feb 1990: A guide to dividend imputation for New Zealand companies.

Qualifying companies (IR 4PB) Oct 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.

Child Support booklets

Child Support - a custodian's guide (CS 71B) - Nov 1995:
Information for parents who take care of children for whom Child Support is payable.

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

Child Support - a liable parent's guide (CS 71A) - Nov 1995:
Information for parents who live apart from their children.

Child Support administrative reviews (CS 69A) - Jul 1994:
How to apply for a review of the amount of Child Support you receive or pay, if you think it should be changed.

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 - how the formula works (CS 68) - 1996: *Explains the components of the formula and gives up-to-date rates.*

What to do if you have a problem when you're dealing with us (CS 287) - May 1995: *Explains how our Problem Resolution Service can help if our normal services haven't resolved your Child Support problems.*

Due dates reminder

September 1996

- 5 Large employers: PAYE deductions and deduction schedules for period ended 31 August 1996 due.
- 7 Provisional tax and/or Student Loan interim repayments: first 1997 instalment due for taxpayers with May balance dates.
 Second 1997 instalment due for taxpayers with January balance dates.
 Third 1996 instalment due for taxpayers with September balance dates.

 1996 end of year payments due (income tax, Student Loans, ACC premiums) for taxpayers with October balance dates.

 1996 income tax returns due to be filed for all non-IR 5 taxpayers with May balance dates.

 QCET payment due for companies with October balance dates, if election is to be effective from the 1997 year.

(We will accept payments received on Monday 9 September as in time for 7 September.)
- 20 Large employers: PAYE deductions and deduction schedules for period ended 15 September 1996 due.

 Small employers: PAYE deductions and deduction schedules for period ended 31 August 1996 due.

 Gaming machine duty return and payment for month ended 31 August 1996 due.

 RWT on interest deducted during August 1996 due for monthly payers.

 RWT on dividends deducted during August 1996 due.

 Non-resident withholding tax (or approved issuer levy) deducted during August 1996 due.
- 30 GST return and payment for period ended 31 August 1996 due.

 Non-resident Student Loan repayments - second 1997 instalment due.

October 1996

- 5 Large employers: PAYE deductions and deduction schedules for period ended 30 September 1996 due.
 - 7 Provisional tax and/or Student Loan interim repayments: first 1997 instalment due for taxpayers with June balance dates.
 Second 1997 instalment due for taxpayers with February balance dates.
 Third 1997 instalment due for taxpayers with October balance dates.

 1996 end of year payments due (income tax, Student Loans, ACC premiums) for taxpayers with November balance dates.

 1996 income tax returns due to be filed for all non-IR 5 taxpayers with June balance dates.

 QCET payment due for companies with November balance dates, if election is to be effective from the 1997 year.
 - 20 Large employers: PAYE deductions and deduction schedules for period ended 15 October 1996 due.

 Small employers: PAYE deductions and deduction schedules for period ended 30 September 1996 due.

 FBT return and payment for quarter ended 30 September 1996 due.

 Gaming machine duty return and payment for month ended 30 September 1996 due.

 RWT on interest deducted during September 1996 due for monthly payers.

 RWT on interest deducted 1 April 1996 to 30 September 1996 due for six-monthly payers.

 RWT on dividends deducted during September 1996 due.

 Non-resident withholding tax (or approved issuer levy) deducted during September 1996 due.
 - 30 GST return and payment for period ended 30 September 1996 due.
-

Public binding rulings and interpretation statements: your chance to comment before we finalise them

This page shows the draft public binding rulings and interpretation statements (formerly policy statements) that we now have available for your review. To give us your comments on any of these drafts, please tick the appropriate boxes, fill in your name and address, and return this page to us at the address below. We will send you a copy of the draft.

We must receive your comments by the "Comment deadline" shown if we are to take them into account in the finalised item. Please send them **in writing, to the address below**, as we don't have the facilities to deal with your comments over the phone or at our local offices.

Name _____
 Address _____

Public binding rulings	Comment Deadline
<input type="checkbox"/> 2690: Taxation of commissions received by life agents on own policies and family policies	30/09/96



No envelope needed - simply fold, tape shut, stamp and post.

Affix
Stamp
Here

Team Leader (Systems)
 Adjudication and Rulings
 National Office
 Inland Revenue Department
 P O Box 2198
 WELLINGTON

Contents continued - questions and legal case notes

Questions we've been asked (pages 18-19)

Income Tax Act 1994

Prizes paid in instalments - correction	18
---	----

Goods and Services Tax Act 1985

GST on supplies from unregistered partners to registered partnerships	18
---	----

Accident Rehabilitation and Compensation Insurance Act 1992

Loss of earnings insurance policy payouts - whether liable to ACC premiums	19
--	----

Legal decisions - case notes (pages 20-22)

TRA 93/21	Supply of services subject to GST	20
-----------	---	----

TRA 95/013 & 95/015	Time limits for appeals	20
---------------------	-------------------------------	----

Union Steamship Co Ltd v CIR	Payment for surrendering option to purchase - capital receipt	21
---------------------------------	---	----

TRA 94/19 & 94/20	Land subdivision profits - assessability	21
-------------------	--	----

TAX INFORMATION BULLETIN

Volume Eight, No.2

August 1996

Contents

Policy statement renamed and restructured	1
Tax deductions from real estate salespersons	1
ACC employer premium classification bulletins - local government	2
Non-resident contractor enquiries - change of IRD contact address	4
Legislation and determinations	
Marquees - draft depreciation determination	5
Wintering pads (rubber) - depreciation (PROV5)	7
Rifles, shotguns, pistols, firearms, fastening guns (explosive) - draft depreciation determination	7
Undersea maintenance equipment - general depreciation determination (DEP17)	9
Binding rulings	
Tower Retirement Investment Ltd's "FuturePlan" (BR Prd 96/18)	11
Tower Retirement Investment Ltd's "FreedomPlan" (BR Prd 96/19)	12
Tower Retirement Investment Ltd's "InvestDirect Plan" (BR Prd 96/20)	14
Earlier binding rulings withdrawn and replaced	15
Mico Wakefield Ltd's trade loyalty programme (BR Prd 96/21)	16
Questions we've been asked	
Answers to enquiries we've received at Inland Revenue, which could have a wider application. See the inside front cover for a list of topics covered in this bulletin.	
Legal decisions - case notes	
Notes on recent cases heard by the Taxation Review Authority, the High Court, the Court of Appeal and the Privy Council. See the inside front cover for a list of cases covered in this bulletin.	
General interest items	
Booklets available from Inland Revenue	23
Due dates reminder	25
Public binding rulings and interpretation statements: your chance to comment before we finalise them	27

This TIB has no appendix