

T AX INFORMATION BULLETIN

Volume Ten, No.2

February 1998

Contents

Legislation and determinations

Computer numerically controlled (CNC) drilling and routing machines – draft general depreciation determination	1
Maori Reserved Land Amendment Act 1997 – tax implications	2
Amendments to the Income Tax Act 1994 arising from other legislation	3

Binding rulings

“Transitional capital amount” – definition (BR Pub 98/1)	4
Investment in WEBS Fund Inc. (BR Prd 98/1).....	6
Notice of withdrawal of Product Ruling (BR Prd 97/43)	8

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

Depreciation determinations issued since last update of IR 260 depreciation booklet	15
Booklets available from Inland Revenue	16
Due dates reminder	19
Public binding rulings and interpretation statements: your chance to comment before we finalise them	21

This TIB has no appendix

ISSN 0114-7161



Inland Revenue
Te Tari Taake

This is an Inland Revenue service to people with an interest in New Zealand taxation.

Contents continued - legal case notes

KR Pine v CIR	Property sold to tenant – whether sale of going concern	9
Thornton Estates Ltd v CIR	Property developer – land acquisition/development costs – deductibility	10
National Insurance Co of NZ Ltd v CIR	Insurance company not assessable on share sale proceeds	10
TRA 96/96	Points of Objection Notice – extension of time for filing	11
Charity Finance Ltd v CIR	Tax credit availability when all income offset within group	11
TRA 95/49	Study payment from employer – assessability	12
Bayly Trust v CIR	Contract for use of farm land – whether taxable activity	12
TRA 96/40	Timber compensation payments (for not logging) – assessability	13

Get your TIB sooner via Internet

Every month the Tax Information Bulletin is loaded onto Inland Revenue's Internet web site. This happens on the same day as the paper copy goes to the printers, so the web site copy will usually be available about ten days before we can post you a paper copy.

You can find us at:

www.ird.govt.nz

This web site contains all the TIBs back to July 1989 (when the TIB started). These will be permanently available; we have no plans to remove them.

Also on our web site is other Inland Revenue information which you may find useful, including any draft binding rulings and interpretation statements that are available. All this material is saved in PDF format, which you can read using freely-available software.

If you find that you prefer the electronic copy of the TIB and no longer need a paper copy, please fill in and return the form at the back of this TIB so we can take you off our mailing list.

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.

Computer Numerically Controlled (CNC) Drilling & Routing Machines – draft general depreciation determination

In Tax Information Bulletin Volume Nine, No. 9 (September 1997) we issued General Depreciation Determination DEP28 for CNC Wood-Turning machines. These machines are generally referred to as CNC Tooling Machines or CNC Machine Centres. We have been asked if the same depreciation rate should also apply to CNC Routing and Drilling Machines, as these machines are also referred to as Machine Centres. We have been advised that the drilling and routing machines

are very similar to the wood-turning machines in DEP28 and the same depreciation rate should apply. The Commissioner proposes to issue a general depreciation determination that will insert “Drilling & Routing Machine, CNC” into the “Timber & Joinery” industry category at a depreciation rate of 22% D.V. The draft determination is reproduced below and is based on an estimated useful life (EUL) of 8 years and a residual value of 13.5%.

General Depreciation Determination DEP[X]

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 1997/98 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 into the “Timber & Joinery” industry category the general asset class, estimated useful life, and diminishing value and straight-line depreciation rate listed below:

	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Timber and Joinery			
Drilling & Routing Machine, CNC	8	22	15.5

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 the proposed new depreciation rate, please write to:

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

We need to receive your submission by 31 March 1998 if we are to take it into account in finalising the determination.

Maori Reserved Land Amendment Act 1997 – tax implications

Introduction

The recent passage of the Maori Reserved Land Amendment Act 1997 provides for compensation to be paid to owners and lessees of Maori reserved land. The Act provides that payments of compensation, solatium payments or payments to owners that may be used for the purchase of leases are exempt from income tax. In addition, such payments will not be treated as consideration for the supply of goods and services. The Act takes effect from 1 January 1998.

Background

The Maori Reserved Land Amendment Bill was introduced into Parliament on 21 August 1996 and was passed on 4 December 1997. The Maori Reserved Land Amendment Act 1997 amends the provisions of the Maori Reserved Land Act 1955, which governs the administration of Maori reserved land leases.

The Act provides compensation to be paid to lessees and owners as a result of changes to their existing lease conditions under the Act.

Compensation to owners of Maori Reserved Land

Compensation will cover the delay in the move to market rents with more frequent rent reviews and the right of first refusal provisions. It will also assist owners in meeting any transaction costs, such as legal fees and valuation costs, that they may incur. Furthermore, an additional payment will be made to owners which they may use to purchase leases as they become available.

Compensation to lessees of Maori Reserved Land

Compensation will cover having to move to market rents with more frequent rent reviews and the right of first refusal provisions and for the extra transaction costs associated with the new lease conditions.

Both owners and lessees have the option of either accepting the compensation calculated using the financial model provided for in the Act or having their compensation determined by the Land Valuation Tribunal.

The Chief Executive of the Ministry of Maori Development will write to the owners and lessees by 2 March 1998 setting out the compensation payable to them according to the financial model under the Act. The letter will advise them that they have the option of either accepting the compensation under the Act or having their compensation determined by the Land Valuation Tribunal. The option must be exercised within three months of the notice being given.

Those who wish to accept the compensation as calculated using the formula must inform the Ministry within three months of notice being given. Those who elect instead to have their compensation calculated by the Tribunal must file their application to the Tribunal within three months of notice being given.

If an owner or lessee fails to take either option in respect of a lease within three months of notice being given, they will be deemed to have accepted the compensation as calculated under the formula in the Act.

Compensation will be paid out soon after the amounts payable have been determined in accordance with the Act.

Tax related features of the Act

The Act contains two provisions relating to income tax and GST.

- A new section CB 5(1)(p) has been inserted in the Income Tax Act 1994 to include in exempt income any payments of compensation, solatium payments or payments to owners for the purchase of leases under the Maori Reserved Land Amendment Act 1997.
- Section 30 of the Act provides that any payments under this Act will not be treated for the purposes of the Goods and Services Tax Act 1985 as consideration for the supply of goods and services.

Interest is also payable by the Crown to owners or lessees when there is a delay in making the payment and the delay is attributable to the Crown. However, this interest is not explicitly covered by the new exemption so its tax treatment must be determined under normal tax rules.

Application date

The amendments apply from 1 January 1998

Amendments to the Income Tax Act 1994 arising from other legislation

Minor changes to the Income Tax Act have been made as a result of other recent legislation.

Cross-references to Hire Purchase Act 1971

Section FC 10(5), and section OB 1 – “lessee’s outstanding balance” and “lessor’s outstanding balance”

Section 50 of the Credit (Repossessions) Act 1997 replaces references to “paragraphs (a) and (b) of section 30(2) of the Hire Purchase Act 1971” with references to “paragraphs (c) and (d) of the Credit (Repossessions) Act 1997”.

The Credit (Repossessions) Act 1997 standardises procedures governing the repossession of goods. Rules contained in the Hire Purchase Act 1971 were revamped and transferred to the new Act, hence the need for the consequential amendments.

The amendment will come into force on 1 July 1998.

Fertiliser definition

Section EK 1

Section 85 of the Agricultural Compounds and Veterinary Medicines Act 1997 removes a reference to the fertiliser definition in the Fertilisers Act 1960. When the amendment comes into force “fertiliser” will be an undefined term in section EK 1.

The Agricultural Compounds and Veterinary Medicines Act 1997 reforms the law relating to the management of risks from agricultural compounds such as animal remedies, fertilisers, stock foods and pesticides. As a result the Fertiliser Act 1960 is being repealed.

The new Act does not contain a definition of fertiliser. Instead it has a generic definition of agricultural compound which is broader than the fertiliser definition in the repealed Act.

In due course Inland Revenue will issue a standard practice statement on what should be accepted as fertiliser for the purpose of section EK 1.

The amendment will apply from a date to be set by the Governor-General by Order in Council.

Statutory Producer Boards

Schedule 15

Schedule 4 to the Meat Board Act 1997 provides for the reference to the “New Zealand Meat Producers Board” in Schedule 15 to the Income Tax Act to be changed to the “New Zealand Meat Board”.

Section 4 of that Act establishes the New Zealand Meat Board and provides that it is the same body corporate as the former Board (the New Zealand Meat Producers Board).

Three new Acts, the Meat Board Act, the Wool Board Act, and the Pork Industry Board Act result from the Producer Board Act Reform Bill, which was part of ongoing reforms of the producer board legislation.

The Wool Board Act and the Pork Industry Act establish the Wool Board and the Pork Industry Board respectively. Again, each Board is the same body corporate as the former Board. No change is required to Schedule 15 in those cases because the names of the boards have not changed.

The amendment applies from 17 December 1997.

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.

"Transitional capital amount" – definition

Public Ruling - BR Pub 98/1

Note (not part of ruling): This ruling is essentially the same as public ruling BR Pub 96/6 which was published in TIB Volume Seven, No. 12, April 1996, but its period of application is from 1 April 1998 to 31 March 2001 and some formatting changes have been made. BR Pub 96/6 applies up until 31 March 1998.

This is a public ruling made under section 91D of the Tax Administration Act 1994.

Taxation Law

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

This Ruling applies to the definition of factor "j" in the formula within the definition of "transitional capital amount" in section OB 1 of the Income Tax Act 1994.

The Arrangement to which this Ruling applies

This Ruling applies to companies that liquidate on or after 1 July 1994 and distribute to shareholders the same class of capital that the company has, prior to 1 July 1994, written off against its losses.

How the Taxation Law applies to the Arrangement

The "aggregate amount of capital paid up before 1 July 1994" in factor "j" of the formula within the definition of "transitional capital amount" includes all paid-up capital that has been, prior to 1 July 1994, written off against losses incurred by the company

The period for which this Ruling applies

This Ruling applies to liquidations (as defined in section OB 1) during the period 1 April 1998 to 31 March 2001 and to distributions from such liquidations during the period 1 April 1998 to 31 March 2001.

This Ruling is signed by me on the 22nd day of January 1998.

Jeff Tyler

Assistant General Manager (Adjudication & Rulings)

Commentary on Public Ruling BR Pub 98/1

This commentary is not a legally binding statement, but is intended to provide assistance in understanding and applying the conclusions reached in Public Ruling BR Pub 98/1 (“the Ruling”).

The subject matter covered in the Ruling was previously dealt with in Public Ruling BR 96/6 (TIB Volume Seven, No. 12, April 1996 at page 4 under the heading “*Definition of “transitional capital amount”*”). This Ruling covers the period from 1 April 1998 to 31 March 2001.

Background

The Companies Act 1993 enacted major reforms in the company law area. One of the most significant was the removal of the concept of “paid-up capital”. Consequently the Income Tax Amendment Act 1994 was enacted to accommodate the changes to company law. In particular, the Income Tax Amendment Act 1994 introduced, with application from 1 July 1994, a definition of “available subscribed capital” for tax purposes.

The Income Tax Amendment Act 1994 also repealed section 4A(1)(h) of the Income Tax Act 1976. Section 4A(1)(h) allowed the Commissioner to exclude from dividends such amount distributed to a shareholder of the company as the Commissioner considered just and reasonable when:

- The company had reduced the amount of the paid-up capital of the shareholder by writing off with High Court approval, losses incurred by the company.
- The company was subsequently wound up.
- Upon the winding up of the company, an amount (whether in money or money’s worth) was distributed to the shareholder in excess of the amount paid up on the shares of the shareholder.

Taxpayers wish to know the effect of the repeal, and in particular whether or not it results in a reduction of a company’s “available subscribed capital” when the company has written off losses against paid-up capital before 1 July 1994. To calculate the available subscribed capital for companies existing before 1 July 1994, the “transitional capital amount” must be determined.

The terms “available subscribed capital” and “transitional capital amount” are discussed in more detail in TIB Volume Six, No. 6 – Company Law Reform (December 1994).

Legislation

Section OB 1 states:

“Transitional capital amount”, in relation to a share in a company at any relevant time, means the amount calculated in accordance with the following formula:

$$\frac{j+k}{l} \times m$$

where -

- j is the **aggregate amount of capital paid up before 1 July 1994** in respect of shares of the same class (whenever

issued and including the share), not being...[Emphasis added.]

- k is the aggregate of qualifying share premium paid to the company before 1 July 1994...
- l is the number of shares in the specified class ever issued before the close of 30 June 1994; and
- m is the number of shares in the specified class on issue at the close of 30 June 1994.

Application of legislation

The “aggregate amount of capital paid up before 1 July 1994” in factor “j” of the definition of “transitional capital amount” includes all paid-up capital that has been written off before 1 July 1994 against losses incurred by the company. This allows a company to restore the written-off capital upon liquidation, without the distribution being treated as a dividend to the shareholders.

Example

- 1990 M Ltd issues 1,000 fully paid-up shares at \$1 each.
- 1992 Pursuant to High Court approval, M Ltd writes off \$500 (50 cents per share) of paid-up capital from its accumulated losses.
- 1994 Paid-up capital at 30 June 1994 is \$500.
- 1995 Shareholders decide to liquidate M Ltd. There have been no movements in the capital of M Ltd since the capital reduction in 1992. After the sale of assets the distribution per share will be 75c.

Because M Ltd existed before 1 July 1994, its “available subscribed capital” is determined by calculating its “transitional capital amount”. To calculate M’s transitional capital amount, the following formula is used:

$$\frac{j+k}{l} \times m$$

In this formula –

j is paid-up capital at the close of 30 June 1994	\$ 500
add back capital reduction	\$ <u>500</u>
aggregate capital paid up before 1 July 1994 as defined in the Ruling	\$1,000
k qualifying share premium	assume is 0
l number of shares ever issued before 1 July 1994	1,000
m shares on issue at 1 July 1994	1,000

$$\frac{\$1,000 + 0}{1,000} \times 1,000 = \$1,000 \quad \text{transitional capital amount}$$

The available subscribed capital per share cancelled equals \$1,000/1,000 = \$1 per share. The \$0.75 per share distributed is not treated as a dividend as it does not exceed the available subscribed capital per share.

Investment in WEBS Fund Inc.

Product Ruling BR Prd 98/1

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

Taxation Laws

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

This Ruling applies in respect of sections CG 3, CG 4, CG 5, CG 15, OE 2 and the definitions of “Foreign company”, “Foreign entity”, and “Foreign investment fund”, contained in section OB 1.

The Arrangement to which this Ruling applies

The Arrangement is the investing by New Zealand resident investors (“the investor”) in WEBS Fund Inc (“WEBS Fund”) and the status of that investment under the international tax rules during the period of investment in WEBS Fund.

WEBS Fund is a United States of America registered company. WEBS is an acronym for “World Equity Benchmark Shares”. WEBS are shares in WEBS Fund. Shares in WEBS Fund are divided into series (“WEBS Series”). The closest concept in New Zealand of division of shares into Series, are classes of shares. All WEBS issued rank *pari passu*.

Each WEBS Series represents a different country. Each WEBS Series invests in a portfolio of shares that mirrors the Morgan Stanley Capital International Index (“MSCI Index”) for that country. At the time of issuing this Ruling there are 17 WEBS Series. WEBS Fund is permitted to create additional WEBS Series. The policy of WEBS Fund is that each WEBS Series remains as fully invested as practicable in a portfolio of equity securities, the performance of which will approximate the performance of the relevant MSCI Index. Within specified parameters WEBS Series may invest a small amount of the assets in securities not comprising the relevant MSCI Index and other derivatives.

WEBS are issued and redeemed directly by WEBS Fund, but only in aggregations that constitute a “Creation Unit”. The size of a Creation Unit varies, and is dependent on the size of the equities market in the relevant country. In a like manner the cost of a Creation Unit of a WEBS Series varies. The consideration for purchase of a Creation Unit of WEBS is the in-kind deposit of a designated portfolio of equity securities, which replicates the weighting and composition of the relevant MSCI Index, and an amount of cash. The cash is a balancing amount to equalise any difference between the value of the securities deposited and the net asset value of the Creation Unit as determined at the date of creation. This Ruling is in respect of the period during which WEBS are held and does not cover the manner in which WEBS are acquired.

WEBS are also tradable on the secondary market. Each WEBS Series is listed on the American Stock Exchange (“the AMEX”). Where such trading occurs there is no requirement to purchase WEBS in aggregations of a Creation Unit, and the AMEX listing rules regulates purchase and sale of WEBS.

Dividends from net investment income are declared and paid at least annually by each WEBS Series, although they may be distributed more often. Each WEBS Series intends to distribute the amount representing the full dividend yield on the underlying portfolio securities of each WEBS Series, net of expenses, as if such WEBS Series owned the portfolio securities for the entire dividend period.

Each WEBS Series intends to qualify for and elect treatment as a separate “regulated investment company” under Subchapter M of the Internal Revenue Code of 1986 for United States of America income tax purposes. The main feature of the regulated investment company regime is a provision that permits a deduction for dividends paid in calculating its taxable income.

WEBS Fund and each WEBS Series is domiciled and resident in the United States of America. WEBS Fund and each WEBS Series is incorporated in and has as its place of management in the United States of America.

Assumptions made by the Commissioner

This Ruling is based on the assumptions that:

- the United States of America is, in the income year in which the Ruling is sought to be applied, a country specified in Part A of Schedule 3 of the Act; and
- the WEBS Fund and the WEBS Series to which the taxpayer seeks to apply this Ruling, is not resident in New Zealand as defined in section OE 2; and
- the WEBS Fund and each WEBS Series is eligible and will elect treatment as a “regulated investment company” under Subchapter M of the United States of America Internal Revenue Code of 1986, and that in any income assessment period WEBS Fund and the WEBS Series to which the taxpayer seeks to apply this Ruling would have United States of America income tax to pay, by reason of its domicile, residence, place of incorporation or place of management pursuant to section OE 2(3), if there was in that income assessment period any undistributed income; and
- no United States of America revenue provisions, or Double Tax Agreement provisions apply to exempt WEBS Fund and the WEBS Series to which the taxpayer seeks to apply this Ruling, from liability for tax in the United States of America; and
- the WEBS Fund and the WEBS Series to which the taxpayer seeks to apply the Ruling is not, in the income year in which the Ruling is sought to be applied, for the purposes of section CG 15(2)(b)(iii) listed in Part B of Schedule 4; and
- the redemption of a Creation Unit of WEBS will result in the investor receiving only cash as the proceeds of redemption; any other sale or disposal of WEBS will result in the investor receiving consideration in cash or some other form other than the underlying assets of WEBS Fund; and
- in the event of a wind-up or any liquidation of any WEBS Series, the investors will receive only cash as their share of the final distribution; and
- the WEBS Series to which the taxpayer seeks to apply this Ruling is not, in the income year in which the Ruling is sought to be applied, a “Controlled foreign company” as defined in section CG 4.

How the Taxation Laws apply to the Arrangement

Subject in all respects to the assumptions above, the Taxation Laws apply to the Arrangement as follows:

- the WEBS Fund and each WEBS Series is a foreign entity which satisfies all of the requirements of section CG 15(2)(b), and accordingly an investor who holds or beneficially owns WEBS does not hold an interest in a Foreign Investment Fund; and

continued on page 8

from page 7

- the WEBS Fund and each WEBS Series will be treated for the purposes of section CG 15(2)(b)(ii) and section OE 2(3) as being liable for tax in the United States of America; and
- a holder or beneficial owner of WEBS does not have an entitlement to acquire, for the purposes of sections CG 3(b) and CG 5(4), shares in foreign companies which are held by WEBS Fund.

The period for which this Ruling applies

This Ruling will apply for the period 15 January 1998 to 31 March 2001.

This Ruling is signed by me on the 15th day of January 1998.

Martin Smith
General Manager (Adjudication & Rulings)

Notice of Withdrawal of Product Ruling

1. This is a notice of withdrawal of a product ruling made under section 91FJ of the Tax Administration Act 1994.
2. Product ruling 97/43 is hereby withdrawn, due to a change in the terms of the Issue Terms referred to in the Arrangement and so that the operation of the Arrangement is able to be clarified in a replacement ruling. It is replaced by product ruling 98/2.
3. Product ruling 97/43 originally applied to investors in a fund for the period 1 October 1997 to 30 September 2002, and notice of its making appeared in the *New Zealand Gazette* of 28 May 1997.
4. Product ruling 97/43 is withdrawn on and from 22 January 1998.

Martin Smith
General Manager (Adjudication & Rulings)

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.

Property sold to tenant – whether sale of going concern

Case: Keith Raymond Pine v CIR

Decision date: 3 December 1997

Act: Goods and Services Tax Act 1985 – section 11(1)(c)

Keywords: *Going concern*

Summary: The majority of the Court of Appeal held that the sale of the property to the purchaser constituted a supply of a taxable activity as a going concern in terms of section 11(1)(c).

Facts: The Appellant was the landlord of a commercial property. The property was leased to a partnership, the partners of which were John Tudehope and Christopher Tudehope. The partnership was terminated. Thereafter, John Tudehope held Christopher Tudehope's interest in the lease in trust for him. The Appellant was not notified of these arrangements and continued to treat the partnership as his tenant.

The Appellant sold the property to Christopher Tudehope or his nominee ("the purchaser"). The sale and purchase agreement recorded details of the lease. However, the memorandum of transfer from the Appellant to the purchaser was not expressed to be subject to the lease and the memorial on the title records a clear title.

The Commissioner refused the purchaser's claim for a deduction of input tax in respect of the purchase, taking the view that the supply in question was a "taxable activity" which changed hands as a going concern as between vendor and purchaser. The Taxation Review Authority upheld the objection. The Commissioner then assessed the Appellant for output tax.

Decision: Thomas and Williams JJ held that the supply was of a going concern. Their Honours relied on the vendor's obligations, in terms of the agreement, to transfer a tenanted property to the purchaser. Their Honours accepted the lease merged into the freehold and therefore ceased to be capable of producing rent, but said that this was of no concern to the vendor.

Property developer – land acquisition/development costs – deductibility

Case: Thornton Estates Limited v CIR

Decision date: 17 December 1997

Act: Income Tax Act 1976 – sections 104, 104A, 65(2)(a), 67(4)(f), 85(1)

Keywords: *Development deductions*

Summary: The Court of Appeal held that a property developer is entitled to deduct expenditure on the acquisition and development of land in arriving at its assessable income for the income year in which the land is acquired, but that he or she must also take into account the partly developed land on hand at balance date.

Facts: The Appellant, a property developer, purchased a block of land. Following the purchase the Appellant engaged a contractor to develop the land for sub-divisional purposes. The Appellant claimed a deduction for “development expenditure” comprising of the cost of purchasing the land, development costs, legal expenses and research and registration fees. The cost of the value of the land was not brought into account as a revenue item.

Decision: The Court of Appeal held that the cost of the land and the subsequent development expenditure incurred was deductible under section 104 of the Act, and that the expenditure was subject to section 104A of the Act.

The Court also held that the Appellant was required to bring into account as a revenue item the cost price of the land and development expenditure.

Insurance company not assessable on share sale proceeds

Case: National Insurance Company of New Zealand Ltd v CIR

Decision date: 26 November 1997

Act: Income Tax Act 1976 - sections 65(2)(a)(e), 99

Keywords: *Profit on sale of shares*

Summary: The High Court held that the Objector’s investment in Southpac had not been acquired for the purpose of resale and consequently the sale proceeds were not profits or gains derived from its business.

Facts: The Objector sold its 30% of the issued capital of South Pacific Merchant Finance Ltd (“Southpac”). The Commissioner included the profit from the sale of the shares in the Objector’s assessable income on the basis that the purchase and subsequent sale of the Southpac shares was part of the Objector’s ordinary business. In the alternative, the Commissioner considered that the sale of the shares contravened section 99 of the Act.

Decision: Williams J found that the Objector, when it acquired the Southpac shares, had no thoughts of disposal or resale. Section 65(2)(e) therefore had no application. His Honour also found that the sale of the shares was the sale of a capital asset and was not part of the Objector’s business. Section 65(2)(a) therefore did not apply.

In light of the above finding his Honour did not have to consider the Commissioner’s section 99 argument. However, his Honour said that had the above finding been different he would have found the Objector’s sale of the shares to be in breach of section 99(2) of the Act. The way the transaction was implemented had the avoidance of tax as a purpose which was far from being incidental.

Points of Objection Notice – extension of time for filing

Case: TRA 96/96

Decision date: 8 December 1997

Act: Taxation Review Authority Regulations 1994 – Regulations 4 and 8

Keywords: *Exceptional circumstances*

Summary: The Taxation Review Authority held that there were “exceptional circumstances” for the Authority to exercise its discretion in granting an extension of time to file a Points of Objection Notice (“PON”).

Facts: The Objectors were to file their PON on or before 12 March 1996. The Objector’s agent alleged that a PON was delivered to the local office of the Respondent on 11 March 1996. However, the Respondent did not receive the PON. On 11 April 1996 the agent faxed a copy of the alleged PON to the Respondent.

The Respondent considered that the PON was invalid because it was out of time and it was a composite notice for two objections. A letter stating the deficiencies and advising the agent to apply for an extension of time was sent on 22 April 1996.

In August 1996 the Respondent contacted the agent, who claimed that he had not received the letter of 22 April 1996.

On 16 October 1996 the Objector’s agent sent in the PON and applied for an extension of time to file the PON.

Decision: Barber J held that the overall justice of the case amounted to there being “exceptional circumstances” and he consequently granted an extension of time to the Objector’s agent to file the PON. His Honour also found that the PON should not have been considered invalid for the reason of it being a composite PON for both taxpayers.

However, Barber J did state at 14-15 that “professional persons should take the message that I may have stretched a point in this case and that somewhat similar situations will probably lead to a deemed withdrawal of an objection.”

Tax credit availability when all income offset within group

Case: Charity Finance Limited v CIR

Decision date: 19 December 1997

Act: Income Tax Act 1976 – sections 38, 191(5) and (5A), 293(2) and (3), 304

Keywords: *Group losses offset, foreign tax credits*

Summary: The High Court held that the Taxation Review Authority was correct to determine that in making the 1992 assessment in respect of the Appellant, the Commissioner acted correctly in disallowing the Appellant’s claim for a tax credit in respect of tax paid overseas on overseas income.

Facts: The Appellant is a private company, which derives income by way of interest and consulting fees, and is also a member of a large group of companies with a common parent company. In the 1992 income year the Appellant declared assessable income of \$444,002. The Appellant offset this income by group losses and consequently had no income tax to pay in that year.

However, the Appellant claimed a tax credit for 1992 for tax payable on taxable income derived from overseas. The issue was whether the Appellant was entitled to a credit, or a refund, in New Zealand against New Zealand income for the 1992 income year.

continued on page 12

from page 11

Decision: Smellie J relied on the decision in *BNZ Finance Limited v Holland* (1997) 18 NZTC 13,156. His Honour concluded that section 36(2) of the Income Tax Act 1976 created the underlying liability to pay income tax, and it was that liability which triggered the application of the other provisions in the Act for ascertaining assessable income.

His Honour concluded that “by deducting group losses from its assessable income, the Appellant company so arranged its affairs that there was no New Zealand tax payable in respect of the income earned by the Australian investment”, and that the Appellant could not therefore use the tax credit.

Study payment from employer – assessability

Case: TRA 95/49

Decision date: 12 January 1998

Act: Income Tax Act 1976 – sections 65(2)(b) and (l), 61(37), 242(b) and 243(2)(o) and (r)

Keywords: *Assessable income, derivation of income, exempt income in terms of a scholarship or bursary*

Summary: The Taxation Review Authority held that the income received by the Objector was assessable because it was derived in New Zealand, constituted income under ordinary concepts and was not of a bursary or scholarship nature.

Facts: In 1988 the Objector was awarded a Special Assistance Programme from his employer, which enabled him to study at an American University for three years. Under the Special Assistance Programme the Objector received a grant of \$4,600 towards airfares, and his full salary, which was paid fortnightly. However, a condition of the Programme was that the Objector had to sign a bond with his employer guaranteeing that he would return to New Zealand after completion of his study and work for his employer. This bond was duly signed.

The Commissioner initially considered that the employment monies were exempt income. However, in 1993 the Commissioner reviewed the situation and reassessed the Objector’s assessable income to include the employment monies.

Decision: Barber J held that the payments were made in respect of or in relation to the Objector’s employment or service and were therefore assessable under section 65(2)(b).

The payments were income under ordinary concepts as they were paid regularly and periodically. The income was also derived in New Zealand because the payments flowed from a contract made in New Zealand.

The payments were not exempt because the payments were made under a contract of employment.

Contract for use of farm land – whether taxable activity

Case: Bayly Trust v CIR

Decision date: 2 December 1997

Act: Goods and Services Tax Act 1985 – section 6(1) and (2)

Keywords: *Taxable activity*

Summary: The High Court held that the Appellants as owners were not, during the term of the deeds, carrying on a taxable activity. This finding was made because pursuant to the deeds in question the Appellants were not involved in any continuous or regular activity.

Facts: The case involved five land-owning trusts. Three of the Appellants owned Tangihau Station (“the Tangihau Appellants”) and the remaining two Appellants owned Cricklewood and Tahanui Stations (“the Cricklewood Appellants”).

Approximately thirty years earlier, the owners of Tangihau Station had entered into a partnership deed. Under the partnership deed (“the deed”) the land was placed at the use and occupation of the partnership for the term of the partnership (thirty years). The deed made it clear that the interests in the land were not partnership assets. At no stage was the partnership registered for GST.

The contractual relationships concerning the owners of Cricklewood and Tahanui Stations were substantially the same.

The Tangihau Appellants sold Tangihau Station to Tangihau Limited, a family company. The Cricklewood Appellants sold Cricklewood and Tahanui Stations to the Bayly Partnership, a related partnership.

Both purchasers were registered for GST and claimed input tax credits on the respective sales. The Commissioner assessed the vendors for GST on the sales. The vendors objected.

The Taxation Review Authority upheld the Commissioner’s assessments. The Taxation Review Authority deemed the vendors to be registered persons who were engaged in the taxable activity of supplying the use and occupation of farmland to the relevant farming partnership.

The Appellants appealed to the High Court.

Decision: Tompkins J found that the Appellants were clearly undertaking an activity that involved the supply of services when they entered into the deeds, which granted the contractual license to the partners. His Honour stated, however, that the issue was whether that or any other activity relating to the contractual license was carried on “continuously or regularly”. His Honour held that the contractual licenses could be distinguished from ordinary leases. A lessor has continuing obligations under a lease and there is a continuing relationship between the parties resulting from the receipt by the lessor of rent. However, obligations of that kind do not arise under the deeds in this case. Once the owners had executed the deeds they were not involved in any further activity. Although the partners had obligations to each other, as recorded in the deeds, their role as owners was entirely passive. “Activity”, however, involves the concept of a person doing something. That was not the role of the owners under these deeds.

Timber compensation payments (for not logging) – assessability

Case: TRA 96/40

Decision date: 14 January 1998

Act: Income Tax Act 1976 – sections 65(2)(a), (h) and (l) and 2

Keywords: *Revenue versus capital payment*

Summary: The Taxation Review Authority held that payments received from the Ministry of Forestry as adjustment assistance for the cessation of logging indigenous timber constitute assessable income.

continued on page 14

from page 13

Facts:

The Objector was a farmer who had an area on his farm covered by indigenous forest. The Objector progressively cleared this area between 1965 and 1989 to convert the land into pasture.

In 1989 the Objector contracted to receive a royalty payment per tonne for the timber. However, in 1990 the Government imposed a ban on logging and exporting indigenous timber and offered adjustment assistance to persons affected.

In 1992 a final payment of \$292,557 was made to the Objector. The payment was made up of loss of timber royalties, assessed rental for the affected area, costs of claim preparation and GST on the timber royalties.

The Commissioner assessed the Objector on the timber royalties and land rental component of the payment.

Decision:

Barber J held that the payment was compensation for loss of profits, which the Objector would have made if the indigenous timber had been cut and sold. His Honour found that the compensation takes the character of that which it replaces and is therefore assessable under section 65(2)(a) as profits or gains derived from any business.

Depreciation determinations issued since last update of IR 260 Depreciation booklet

This list shows the contents of all depreciation determinations we've issued since the last update of our Depreciation booklet (IR 260). We've published it so you can quickly check whether you need to review any determinations when calculating depreciation for tax purposes.

Some determinations cover a large number of assets which will concern relatively few taxpayers. For these determinations we've simply listed a cross-reference to the original TIB article rather than reproduce several pages of figures here.

This list is essentially a summary; if you're claiming depreciation on any of these assets we recommend that you refer to the original TIB article to make sure you get the full context of the determination, including the relevant industry categories.

Asset	Estimated useful life (years)	DV banded depreciation rate (%)	SL equivalent banded dep'n rate (%)	Determination number	Appears in TIB
Aquariums	4	40	30	DEP22	9.2:1
Automotive tools (<i>various – see TIB article</i>)				DEP30	9.11:2
Bakery utensils (incl. pots and pans)	3	50	40	DEP30	9.11:2
Bedding (Hotels, Motels, etc, and medical/lab)	3	50	40	DEP30	9.11:3,4
Bin (wool storage, live bottom)	15.5	12	8	DEP11	7.3:20
Bulkheads (insulated, removable)	4	40	30	DEP13	7.10:26
CCH Electronic NZ Essential Tax Package, designed for a specific tax year	1	100	100	PROV4	7.3:19
CCH Electronic NZ Master Tax Guide, designed for a specific tax year	1	100	100	PROV4	7.3:19
Combing machines (wool)	15.5	12	8	DEP11	7.3:20
Containers (insulated, below 8m ³)	5	33	24	DEP13	7.10:26
Containers (shipping)	20	9.5	6.5	DEP13	7.10:26
Crown Health Enterprise assets (<i>half a page of various assets - see TIB article</i>)					6.5:3
Dance floor	20	9.5	6.5	DEP30	9.11:3
Drilling machines (horizontal directional)	6.66	26	18	DEP24	9.3:3
Drilling machine components, underground (horizontal directional)	2	63.5	63.5	DEP24	9.3:3
Electronic article surveillance systems	5	33	24	DEP26	9.6:3
Engineering tools (<i>various – see TIB article</i>)				DEP30	9.11:2
Fastening guns (explosive)	3	50	40	DEP20	8.10:1
Firearms (Leisure industry category)	10	18	12.5	DEP20	8.10:1
Gas cylinders – LPG (incl. propane and butane)	8	22	15.5	DEP16	8.1:10
Gas cylinders – other	12.5	15	10	DEP16	8.1:10
Gill machines (wool)	20	9.5	6.5	DEP11	7.3:20
Golf ball placing machine and sensor	3	50	40	DEP10	7.3:18
Golf driving ranges, netting (for golf driving nets)	5	33	24	DEP10	7.3:18
Golf driving ranges, poles (for golf driving nets)	20	9.5	6.5	DEP10	7.3:18
Golf mats (stance and base, at golf driving/practice ranges)	2	63.5	63.5	DEP10	7.3:18
Hand soap dispensers	2	63.5	63.5	DEP7	6.7:16
Ink mixing systems, computerised	3	50	40	DEP27	9.8:2
“Kiwiplus” – kiwifruit packhouse software	1	100	100	PROV6	9.6:8
Lawnmowers (domestic type in use by lawnmowing contractors)	2	63.5	63.5	DEP15	7.13:22
Lawnmowers (non-domestic type in use by lawnmowing contractors)	5	33	24	DEP15	7.13:22
Machine centre, CNC (timber/joinery industry)	8	22	15	DEP28	9.9:1
Marquees (<i>half a page of various assets – see TIB article</i>)				DEP18	8.6:8
Medical and medical laboratory equipment (<i>3 pages of various assets – see TIB article</i>)				DEP8	6.7:17
Mulchers (commercial)	4	40	30	DEP25	9.6:6

continued on page 16

Paintball firearms	2	63.5	63.5	DEP20	8.10:1
Pallet covers (insulated)	2	63.5	63.5	DEP13	7.10:26
Paper towel dispensers	2	63.5	63.5	DEP7	6.7:16
Pistols, Air (Leisure industry category)	10	18	12.5	DEP20	8.10:1
Plant trolleys	5	33	24	DEP23	9.3:2
Psychological testing sets	10	18	12.5	PROV2	6.10:6
Rams (hydraulic or pneumatic)	3	33	24	DEP30	9.11:3
Residential rental property chattels (<i>various – see TIB article</i>)				DEP30	9.11:3
Rifles, Air (Leisure industry category)	10	18	12.5	DEP20	8.10:1
Rifles (less than 10,000 rounds per year)	6.66	26	18	DEP20	8.10:1
Rifles (more than 10,000 rounds per year)	2	63.5	63.5	DEP20	8.10:1
Scaffolding (aluminium)	8	22	15.5	DEP19	8.8:3
Scaffolding (other than aluminium)	15.5	12	8	DEP19	8.8:3
Scientific and laboratory equipment (not medical laboratory equipment) (<i>2 pages of various assets – see TIB article</i>)				DEP8	6.7:17
Shop utensils (incl pots and pans)	3	50	40	DEP30	9.11:3
Shotguns (less than 50,000 rounds per year)	6.66	26	18	DEP20	8.10:1
Shotguns (more than 50,000 rounds per year)	2	63.5	63.5	DEP20	8.10:1
Skidoo	5	33	24	DEP30	9.11:3
Speed humps (metal)	5	33	24	PROV3	6.13:13
Stage	20	9.5	6.5	DEP30	9.11:3
Static delimiters (timber industry)	5	33	24	DEP9	6.11:16
Tags (security)	3	50	40	DEP21	9.1:1
Toilet roll dispensers	2	63.5	63.5	DEP7	6.7:16
Tomato graders	8	22	15.5	DEP14	7.13:23
Tooling machine, CNC (timber/joinery industry)	8	22	15	DEP28	9.9:1
Trailers (class TD – over 10 tonnes) – when rented for periods of one month or less	10	18	12.5	DEP29	9.11:1
Undersea maintenance equipment (<i>1 page of various assets – see TIB article</i>)				DEP17	8.2:9
Wintering pads (rubber)	6.66	26	18	PROV5	8.2:7
Yachts (international ocean-going)	6	15	10	DEP12	7.10:25
Yachts (other than international ocean-going)	15.5	12	8	DEP12	7.10:25

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. To order any of these booklets, call the forms and stationery number listed under “Inland Revenue” in the blue pages at the front of your phone book. This is an automated service, and you’ll need to have your IRD number handy when you call.

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.

Cash assistance for your growing family (FS 4) - Mar 1997: Information about Family Assistance and how to apply.

Disputing a notice of proposed adjustment (IR 210K) - Oct 1996: If we send you a notice to tell you we’re going to adjust your tax liability, you can dispute the notice. This booklet explains the process you need to follow.

Disputing an assessment (IR 210J) - Oct 1996: Explains the process to follow if you want to dispute our assessment of your tax liability, or some other determination.

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.

If you disagree with us (IR 210Z) - Sep 1996: This leaflet summarises the steps involved in disputing an assessment.

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.

Independent Family Tax Credit (FS 3) - Sep 1996: *Introducing extra help for families, applying from 1 July 1996.*

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) - Jun 1997: *An explanation of who is a New Zealand resident for tax purposes.*

Overseas private pensions (IR 258A) - Oct 1996: *Explains the tax obligations for people who have interests in a private superannuation scheme or life insurance annuity policy that is outside New Zealand.*

Overseas social security pensions (IR 258) - Jun 1997: *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 1997: *People whose end-of-year tax bill is \$2,500 or more 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) - Jun 1997: *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) - Jun 1997: *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) - Feb 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) - 1998: *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) - Jun 1997: *A guide to the surcharge for national superannuitants who also have other income.*

Tax facts for income-tested beneficiaries (IR 40C) - Aug 1997: *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 obligations, interest and penalties (IR 240) - Jan 1997: *A guide to the new laws dealing with interest, offences and penalties applying from 1 April 1997.*

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 1997: *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 1997.*

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

Direct selling (IR 261) - Aug 1996: *Tax information for people who distribute for direct selling organisations.*

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) - Jul 1997: *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 1997: *A basic introduction to goods and services tax, which will also tell you if you have to register for GST.*

GST guide (GST 600) - Dec 1997: *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) - Mar 1997: *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.*

Making payments (IR 87C) - Nov 1996: *How to fill in the various payment forms to make sure payments are processed quickly and accurately.*

PAYE deduction tables - 1999

- 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 April 1998.

Retiring allowances and redundancy payments (IR 277) -

Aug 1997: An explanation of the tax treatment of these types of payments.

Smart Business (IR 120) - Jul 1996: An introductory guide to tax obligations and record keeping, for businesses and non-profit organisations.

Surcharge deduction tables (IR 184NS) - 1998: 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 payer's 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) - Jul 1996: 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) - Jun 1997: 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) - Dec 1997: 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

A guide for parents who pay child support (CS 71A) - May 1997: Information for parents who live apart from their children.

Child support - a guide for custodians (CS 71B) - Nov 1997: 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 administrative reviews - how to apply (CS 69A) - Apr 1997: How to apply for a review of the amount of child support you receive or pay, if you have special circumstances.

Child support administrative reviews - how to respond (CS 69B) - Apr 1997: Information about the administrative review process, and how to respond if you are named in a review application.

Child support and the Family Court (CS 51) - Apr 1997: Explains what steps people need to take if they want to go to the Family Court about their 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 - estimating your income (CS 107G) - Aug 1997: Explains how to estimate your income so your child support liability reflects your current circumstances.

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

Problems with our child support service? (CS 287) - Jul 1997: Explains how our Problem Resolution Service can help if our normal services haven't resolved your child support problems.

Due dates reminder

March 1998

- 5 Large employers: PAYE deductions and deduction schedules for period ended 28 February 1998 due.
- 7 Provisional tax and/or Student Loan interim repayments: first 1999 instalment due for taxpayers with November balance dates.
- Second 1998 instalment due for taxpayers with July balance dates.
- Third 1998 instalment due for taxpayers with March balance dates.
- 20 Large employers: PAYE deductions and deduction schedules for period ended 15 March 1998 due.
- Small employers: PAYE deductions and deduction schedules for period ended 28 February 1998 due.
- Gaming machine duty return and payment for month ended 28 February 1998 due.
- RWT on interest deducted during February 1998 due for monthly payers.
- RWT on dividends deducted during February 1998 due.
- Non-resident withholding tax (or approved issuer levy) deducted during February 1998 due.
- 31 GST return and payment for period ended 28 February 1998 due.
- Non-resident Student Loan repayments - fourth instalment of 1998 non-resident assessment due.

April 1998

- 5 Large employers: PAYE deductions and deduction schedules for period ended 31 March 1998 due.
- 7 Provisional tax and/or Student Loan interim repayments: first 1999 instalment due for taxpayers with December balance dates.
- Second 1998 instalment due for taxpayers with August balance dates.
- Third 1998 instalment due for taxpayers with April balance dates.
- 20 Large employers: PAYE deductions and deduction schedules for period ended 15 April 1998 due.
- Small employers: PAYE deductions and deduction schedules for period ended 31 March 1998 due.
- All employers: All IR 12 and IR 13 certificates for year ended 31 March 1998 must be completed, and yellow copies given to workers.
- FBT return and payment for quarter ended 31 March 1998 due.
- Gaming machine duty return and payment for month ended 31 March 1998 due.
- RWT on interest deducted during March 1998 due for monthly payers.
- RWT on interest deducted 1 October 1997 to 31 March 1998 due for six-monthly payers.
- RWT on dividends deducted during March 1998 due.
- Non-resident withholding tax (or approved issuer levy) deducted during March 1998 due.
- 30 GST return and payment for period ended 31 March 1998 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 that we now have available for your review. You can get a copy and give us your comments in three ways:

By post: Tick the drafts you want below, fill in your name and address, and return this page to the address below. We'll send you the drafts by return post. Please send any comments *in writing, to the address below*. We don't have facilities to deal with your comments by phone or at our local offices.

From our main offices: Pick up a copy from the counter at our office in Takapuna, Manukau, Hamilton, Wellington, Christchurch or Dunedin. You'll need to post your comments back to the address below; we don't have facilities to deal with them by phone or at our local offices.

On the Internet: Visit our web site at <http://www.ird.govt.nz/rulings/> Under the "Adjudication & Rulings" heading, click on "Draft Rulings", then under the "Consultation Process" heading, click on the drafts that interest you. You can return your comments via the Internet.

Name _____
Address _____

✓ **Interpretation statements**

Comment Deadline

- | | |
|------------------------------------------------------------------------------------------------------|---------------|
| <input type="checkbox"/> 0006: Fines, penalties, and like payments – income tax deductibility | 31 March 1998 |
| <input type="checkbox"/> 3387: Damages and out of court settlements – GST treatment | 31 March 1998 |

We must receive your comments by the deadline shown if we are to take them into account in the finalised item



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



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

