

# TAX INFORMATION BULLETIN

Volume Ten, No.6

June 1998

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

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## 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.

### Livestock – 1998 national average market values

This determination may be cited as “The National Average Market Values of Specified Livestock Determination, 1998”.

This determination is made in terms of section EL 8(1) of the Income Tax Act 1994 and shall apply to specified livestock on hand at the end of the 1997-98 income year.

For the purposes of section EL 8(1) of the Income Tax Act 1994 the national average market values of specified livestock, for the 1997-98 income year, are as set out in the following table.

Type of livestock	Classes of livestock	Average market value per head (\$)
<b>Sheep</b>	Ewe hoggets	35.00
	Ram and wether hoggets	32.00
	Two-tooth ewes	49.00
	Mixed-age ewes (rising three-year and four-year old ewes)	42.00
	Rising five-year and older ewes	34.00
	Mixed-age wethers	29.00
	Breeding rams	109.00
<b>Beef cattle</b>	<i>Beef breeds and beef crosses:</i>	
	Rising one-year heifers	170.00
	Rising two-year heifers	321.00
	Mixed-age cows	402.00
	Rising one-year steers and bulls	249.00
	Rising two-year steers and bulls	393.00
	Rising three-year and older steers and bulls	494.00
	Breeding bulls	1,079.00
<b>Dairy cattle</b>	<i>Friesian and related breeds:</i>	
	Rising one-year heifers	263.00
	Rising two-year heifers	517.00
	Mixed-age cows	651.00
	Rising one-year steers and bulls	214.00
	Rising two-year steers and bulls	364.00
	Rising three-year and older steers and bulls	489.00
	Breeding bulls	646.00
	<i>Jersey and other dairy cattle:</i>	
	Rising one-year heifers	253.00
	Rising two-year heifers	505.00
	Mixed-age cows	641.00
	Rising one-year steers and bulls	135.00
	Rising two-year and older steers and bulls	284.00
	Breeding bulls	531.00
	<b>Deer</b>	<i>Red deer:</i>
Rising one-year hinds		134.00
Rising two-year hinds		247.00
Mixed-age hinds		314.00
Rising one-year stags		165.00
Rising two-year and older stags (non-breeding)		281.00
Breeding stags	1,436.00	

table continued on page 2

Type of livestock	Classes of livestock	Average market value per head (\$)
<b>Deer</b>	<i>Wapiti, elk, and related crossbreeds:</i>	
	Rising one-year hinds	169.00
	Rising two-year hinds	286.00
	Mixed-age hinds	345.00
	Rising one-year stags	198.00
	Rising two-year and older stags (non-breeding)	316.00
	Breeding stags	1,453.00
	<i>Other breeds:</i>	
	Rising one-year hinds	50.00
	Rising two-year hinds	100.00
	Mixed-age hinds	123.00
	Rising one-year stags	73.00
	Rising two-year and older stags (non-breeding)	117.00
	Breeding stags	335.00
<b>Goats</b>	<i>Angora and angora crosses (mohair producing):</i>	
	Rising one-year does	15.00
	Mixed-age does	21.00
	Rising one-year bucks (non-breeding)/wethers	18.00
	Bucks (non-breeding)/wethers over one year	21.00
	Breeding bucks	80.00
	<i>Other fibre and meat producing goats (Cashmere or Cashgora producing):</i>	
	Rising one-year does	16.00
	Mixed-age does	21.00
	Rising one-year bucks (non-breeding)/wethers	19.00
	Bucks (non-breeding)/wethers over one year	21.00
	Breeding bucks	93.00
	<i>Milking (dairy) goats:</i>	
	Rising one-year does	120.00
Does over one year	180.00	
Breeding bucks	280.00	
Other dairy goats	250.00	
<b>Pigs</b>	Breeding sows less than one year of age	173.00
	Breeding sows over one year of age	235.00
	Breeding boars	288.00
	Weaners less than 10 weeks of age (excluding sucklings)	40.00
	Growing pigs 10 to 17 weeks of age (porkers and baconers)	89.00
	Growing pigs over 17 weeks of age (baconers)	135.00

This determination is signed by me on the 22nd day of May 1998.

Martin Smith  
 General Manager (Adjudication & Rulings)

### **Fringe benefit tax – prescribed interest rate increased to 11.23%**

The prescribed interest rate used to calculate the fringe benefit value of low interest employment related loans has been increased to 11.23% for the quarter beginning on 1 July 1998. This rate will continue to apply to subsequent quarters until it is further adjusted.

The prescribed rate is up from 10.50% for the quarter that began on 1 April 1998.

# Motor vehicles rented for short-term periods of 1 month or less

## Depreciation Determination DEP34

In Tax Information Bulletin Volume Ten, No. 3 (March 1998) we published a draft general depreciation determination for motor vehicles when rented for short-term periods of 1 month or less, and invited readers to make submissions on the proposed depreciation rates. Only one submission was received, and the issues raised in that submission are to be considered as a separate project.

The Commissioner has now signed the determination, which is reproduced below. It may be cited as “Determination DEP34: Tax Depreciation Rates Determination General Determination No. 34”. The determination is based on the estimated useful lives set out in the determination and a residual value of 13.5%.

### General Depreciation Determination DEP34

This determination may be cited as “Determination DEP34: Tax Depreciation Rates General Determination Number 34”.

#### 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 “Transportation” asset category the general asset classes, estimated useful lives, and diminishing value and straight-line depreciation rates listed below:

Transportation	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Motor vehicles - Class NA (for transporting light goods, that have a gross vehicle mass not exceeding 3.5 tonnes and used for short-term hire).	6.66	26	18
Motor vehicles - Class NB (for transporting medium goods, that have a gross vehicle mass exceeding 3.5 tonnes but not exceeding 12 tonnes and used for short-term hire).	8	22	15.5
Motor vehicles - Class NC (for transporting heavy goods, that have a gross vehicle mass exceeding 12 tonnes and used for short-term hire).	6.66	26	18
Trailers - Class TC (for transporting medium goods that have a gross vehicle mass exceeding 3.5 tonnes but not exceeding 10 tonnes and used for short-term hire).	12.5	15	10
Trailers - Class TD (for transporting heavy goods, that have a gross vehicle mass exceeding 10 tonnes and used for short-term hire).	10	18	12.5
Trailers - Class TA and TB (for transporting very light and light goods that have a gross vehicle mass not exceeding 3.5 tonnes and used for short-term hire) excluding domestic trailers.	10	18	12.5
Trailers – domestic. Not exceeding 1 tonne. Used for short-term hire.	6.66	26	18

- 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:

<b>Hire Equipment (Where on short-term hire of 1 month or less only)</b>	<b>Estimated useful life (years)</b>	<b>DV banded dep'n rate (%)</b>	<b>SL equivalent banded dep'n rate (%)</b>
Fork lift trucks - under 8 tonnes.	6.66	26	18
Fork lift trucks - 8 tonnes and over.	8	22	15.5
Motor vehicles (for transporting people, up to and including 12 seats).	4	40	30
Motor vehicles - Class NA (for transporting light goods, that have a gross vehicle mass not exceeding 3.5 tonnes and used for short-term hire).	6.66	26	18
Motor vehicles - Class NB (for transporting medium goods, that have a gross vehicle mass exceeding 3.5 tonnes but not exceeding 12 tonnes and used for short-term hire).	8	22	15.5
Motor vehicles - Class NC (for transporting heavy goods, that have a gross vehicle mass exceeding 12 tonnes and used for short-term hire).	6.66	26	18
Trailers - Class TC (for transporting medium goods that have a gross vehicle mass exceeding 3.5 tonnes but not exceeding 10 tonnes and used for short-term hire).	12.5	15	10
Trailers - Class TD (for transporting heavy goods, that have a gross vehicle mass exceeding 10 tonnes and used for short-term hire).	10	18	12.5
Trailers - Class TA and TB (for transporting very light and light goods that have a gross vehicle mass not exceeding 3.5 tonnes and used for short-term hire) excluding domestic trailers.	10	18	12.5
Trailers – domestic. Not exceeding 1 tonne. Used for short-term hire.	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 11th day of May 1998.

Martin Smith  
General Manager (Adjudication & Rulings)

### Use of money interest rates

The use of money interest rates have been increased. From 7 July 1998, the use of money interest rates on revenues and duties will increase from 13.9% to 14.69% for underpayments and from 7.1% to 8.26% for overpayments.

# Delimiters, self-propelled, mobile

## Depreciation Determination DEP35

In Tax Information Bulletin Volume Ten, No.3 (March 1998) we published a draft general depreciation determination for self-propelled delimiters, used in the Timber industry to shear tree limbs. No submissions were received, and the Commissioner has now issued the determination.

The determination is reproduced below and may be cited as "Determination DEP35: Tax Depreciation Rates General Determination No. 35". The determination is based on an estimated useful life of 8 years and a residual value of 13.5%.

## General Depreciation Determination DEP35

This determination may be cited as "Determination DEP35: Tax Depreciation Rates General Determination Number 35".

### 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 1995/96 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 and Joinery Industries" industry category the general asset class, estimated useful life, and diminishing value and straight-line depreciation rates listed below:

<b>Timber and Joinery Industries</b>	<b>Estimated useful life (years)</b>	<b>DV banded dep'n rate (%)</b>	<b>SL equivalent banded dep'n rate (%)</b>
Delimiters, self-propelled, mobile	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.

This determination is signed by me on the 14th day of May 1998.

Martin Smith  
General Manager (Adjudication & Rulings)

# Wind turbine generators

## Depreciation Determination DEP36

In Tax Information Bulletin Volume Nine, No. 11 (November 1997) we published a draft general depreciation determination for “Wind Turbine Generators”, and invited readers to make submissions on the proposed depreciation rate. We received a number of submissions, and referred the matter back to a firm of valuers for further consideration.

Following discussions with the valuers and other interested parties, the Commissioner has now issued the determination which confirms the rates set out in the draft. The determination inserts the new asset class

“Wind Turbine Generators” into the “Power Generation and Electrical Reticulation Systems” industry category. Both “Wind Turbine Generators” and “Windmills” will have a depreciation rate of 18% D.V. (12.5% S.L.), based on an estimated useful life of 10 years.

The determination is reproduced below and may be cited as “Determination DEP36: Tax Depreciation Rates General Determination Number 36”. The determination is based on an estimated useful life (EUL) set of 10 years and a residual value of 13.5%.

### General Depreciation Determination DEP36

This determination may be cited as “Determination DEP36: Tax Depreciation Rates General Determination Number 36”.

#### 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 “Power Generation and Electrical Reticulation Systems” industry category the general asset classes, estimated useful lives, and diminishing value and straight-line depreciation rates listed below:

Power Generation and Electrical Reticulation Systems	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Wind Turbine Generators	10	18	12.5
Windmills	10	18	12.5

- Deleting from the “Power Generation and Electrical Reticulation Systems” industry category the general asset class, estimated useful life and diminishing value and straight-line depreciation rate listed below:

Power Generation and Electrical Reticulation Systems	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Windmills	12.5	15	10

#### 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 29th day of May 1998.

Martin Smith  
General Manager (Adjudication & Rulings)



# Hi-trim shelter trimmers

## Draft general depreciation determination

We have been advised that there is currently no suitable general depreciation rate for Hi-trim shelter trimmers, which are attached to tractors and used in the agricultural and horticultural industries for trimming and topping shelter belts.

The Commissioner proposes to issue a general depreciation determination which will insert a new asset class "Hi-trim shelter trimmers" into the "Agriculture, Horticulture and Aquaculture" industry category, with a depreciation rate of 18% D.V. (12.5% S.L.), based on an

estimated useful life of 10 years. The proposed depreciation rate will apply to the trimmer itself and the sub-frame that mounts on to the tractor. The tractor itself should be depreciated as a separate asset using the appropriate depreciation rate.

The draft determination is reproduced below. The proposed new depreciation rate is based on the estimated useful life set out in the determination 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 "Agriculture, Horticulture and Aquaculture" industry category the general asset class, estimated useful life, 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 (%)
Hi-trim shelter trimmer	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.

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

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

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

# Comparators (consumer electronics comparative display units)

## Draft general depreciation determination

We have been advised that there is currently no suitable general depreciation rate for consumer electronics comparative display units, known in the electronics and retail industries as “comparators”. These units are placed in retail outlets where they are used to display electronic products, such as car audio products, and allow potential customers to “sample” and compare product ranges. A typical comparator will comprise:

- custom designed and built wooden/metal frame
- power supply and switching units
- battery.

Due to the continually changing nature of the product ranges being displayed using these comparators, the

average useful life of a comparator is approximately three years.

The Commissioner proposes to issue a general depreciation determination which will insert a new asset class “Comparators (Consumer Electronics Comparative Display Units)” into the “Shops” industry category, with a depreciation rate of 50% D.V. (40% S.L.), based on an estimated useful life of 3 years.

The draft determination is reproduced below. The proposed new depreciation rate is based on the estimated useful life set out in the determination 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 “Shops” industry category the general asset class, estimated useful life, and diminishing value and straight-line depreciation rates listed below:

Shops	Estimated useful life (years)	DV banded dep'n rate (%)	SL equivalent banded dep'n rate (%)
Comparators (Consumer Electronics Comparative Display Units)	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 the proposed changes, please write to:

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

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

## Interpretation statements

This section of the TIB contains interpretation statements issued by the Commissioner of Inland Revenue. These statements set out the Commissioner's view on how the law applies to a particular set of circumstances when it is either not possible or not appropriate to issue a binding public ruling.

In most cases Inland Revenue will assess taxpayers in line with the following interpretation statements. However, our statutory duty is to make correct assessments, so we may not necessarily assess taxpayers on the basis of earlier advice if at the time of the assessment we consider that the earlier advice is not consistent with the law.

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## Meaning of “incurred” – the Privy Council decision in the Mitsubishi case

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The appendix to this TIB considers the Privy Council decision *Commissioner of Inland Revenue v Mitsubishi Motors New Zealand Limited* (1995) 17 NZTC 12,351. That case dealt with the timing of deductions and, in particular, the meaning of “incurred” (as it now appears in section BD 2(1)(b)) in the context of warranty expenditure. The Privy Council held that the taxpayer in the case incurred future estimated warranty expenditure in the year in which it sold the warranted vehicles and, as a consequence, was entitled to take a deduction for that estimated expenditure in that income year.

The statement sets out Inland Revenue's interpretation of the meaning of “incurred” in the light of *Mitsubishi*. It also considers:

- what is required in terms of a reasonable estimation of future estimated expenditure;
- how to account for estimated liabilities, including in the first year that an estimated basis is adopted; and
- the application of section EF 1.

See the appendix to this TIB for the full interpretation statement

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## Standard practice statements

These statements 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.

### Unacceptable interpretation – non application of a tax law Standard Practice Statement INV-206

#### Summary

If a tax shortfall has been identified and the Commissioner is satisfied that the taxpayer did not apply their mind to the tax laws or make an interpretation, the unacceptable interpretation standard will not apply.

If a taxpayer has taken the advice of a tax advisor, or a tax advisor has prepared their tax return, the Commissioner has the expectation that the tax advisor applied his/her mind to the tax laws and exercised his/her judgment. The unacceptable interpretation standard will apply unless the Commissioner is satisfied that the tax advisor did not apply his/her mind to the tax laws or make an interpretation.

This Standard Practice Statement amends SPS INV-205 to the extent that a taxpayer must have turned their mind to the tax laws or made an interpretation to have taken an unacceptable interpretation.

#### Application

This practice applies to assessments of the unacceptable interpretation shortfall penalty issued on or after 1 June 1998.

#### Legislation

Section 141B(1) of the Tax Administration Act 1994 defines an unacceptable interpretation as follows:

“In relation to a tax position taken by a taxpayer, an unacceptable interpretation –

- (a) Is an interpretation or an interpretation of an application of a tax law; and
- (b) Viewed objectively, that interpretation or application fails to meet the standard of being about as likely as not to be correct.”

#### Background

Inland Revenue’s Standard Practice Statement INV-205 set out the policy with respect to “non-application of a tax law” as follows:

There may be instances where a taxpayer argues that he or she did not apply a section of the Act, therefore, did not interpret the particular section as applying. Accordingly, the taxpayer contends that the unacceptable interpretation standard does not apply.

The non-application of a tax law will in all cases be considered to be applying the tax law.

Inland Revenue took the view that, in being liable for a penalty for taking an unacceptable interpretation of the law, taxpayers do not have to put their minds to the particular tax position taken.

We have now reviewed this policy, and it will not apply to assessments of the unacceptable interpretation shortfall penalty issued on or after 1 June 1998.

#### Practice applicable from 1 June 1998

If a tax shortfall has been identified and the Commissioner is satisfied that a taxpayer did not apply their mind to the tax laws or make an interpretation, the unacceptable interpretation standard will not apply. Therefore, Inland Revenue will not consider whether or not the taxpayer has breached the unacceptable interpretation standard. However, we will consider whether or not the taxpayer has been culpable under the reasonable care, gross carelessness or evasion standards.

If a taxpayer has taken the advice of a tax advisor, or a tax advisor has prepared the tax return, Inland Revenue expects that the tax advisor has interpreted the tax laws and exercised his/her judgment, so the unacceptable interpretation standard will apply. This is a rebuttable presumption and Inland Revenue will take this position unless the tax advisor can demonstrate that this is not the case.

Inland Revenue considers that the following is appropriate to each case:

#### **(1) Taxpayers who prepare their own returns without the assistance of an advisor**

A taxpayer takes a tax position that results in a tax shortfall that is based on a tax law and exceeds the threshold for consideration of a penalty for taking an unacceptable interpretation. The taxpayer asserts that they did not apply the law because they did not consider the issue.

If the taxpayer’s actions confirm that the taxpayer looked at the legislation and demonstrate that they have considered the tax laws with respect to the transaction, Inland Revenue can consider the unacceptable interpretation penalty.

If Inland Revenue is satisfied that the taxpayer did not make an interpretation, we will not consider the unacceptable interpretation standard. However, the taxpayer

may have breached the reasonable care, gross carelessness or evasion standards, and we would need to consider these.

This does not mean that just because Inland Revenue cannot penalise a taxpayer under the objective unacceptable interpretation standard the penalty for lack of reasonable care, gross carelessness or evasion will automatically be imposed. It means that Inland Revenue will consider whether or not those standards have been breached.

## **(2) Taxpayers who have in-house tax professionals**

A corporate taxpayer employs tax professionals to make decisions upon the tax treatment of its transactions. The tax employees, also, prepare all of the taxpayer's tax returns. The taxpayer takes a tax position that results in a tax shortfall that is based on a tax law and exceeds the threshold for consideration of a penalty for taking an unacceptable interpretation.

In this case, Inland Revenue will take the view that the tax employees will have interpreted the law with respect to the tax positions taken, and the unacceptable interpretation standard applies. The exception would be if the Commissioner were satisfied that the tax employees did not make an interpretation, in which case the unacceptable interpretation standard would not apply.

However, the taxpayer may have breached the reasonable care, gross carelessness or evasion standard and this would be considered.

## **(3) Taxpayer seeks advice from an advisor**

A taxpayer is unsure of the tax position to take regarding a transaction. The taxpayer seeks the advice of a tax advisor, and that advisor puts their mind to the issue and makes an interpretation. In this case, the unacceptable interpretation penalty can be imposed.

This same result would occur if the taxpayer engaged a tax advisor to prepare his/her tax returns. Inland Revenue has the expectation that during preparation of the return, the tax advisor has applied their mind to the tax laws and exercised judgment when deciding to take the various tax positions in that return.

The exception would be if the Commissioner were satisfied that the tax advisor did not make an interpretation, in which case, the unacceptable interpretation standard will not apply. To be satisfied that a tax agent did not make an interpretation or exercise judgment, Inland Revenue staff will be making inquiries with respect to the tax treatment of transactions in returns prepared by the advisor.

In this case, if the taxpayer has reasonably relied upon the advisor, the taxpayer will have met the reasonable care standard.

Tony Bouzaid  
National Manager, Operations Policy

## **Examples**

### **Business taxpayer – deduction claimed for capital item**

A business taxpayer employs an office person to complete its tax returns. The office person has a knowledge of the tax laws concerning deductible expenditure.

During an audit of the company's 1998 income tax return, it is ascertained that a large item of plant that was purchased during the return period was claimed as deductible expenditure. The expenditure is disallowed and a tax shortfall results which is based upon the application of a tax law and exceeds the threshold for consideration of an unacceptable interpretation penalty.

The taxpayer contends that, when they took their tax position, they did not consider the tax laws with respect to the item purchased but that they just claimed the total amount of expenditure as noted in the ledger. They contend that the unacceptable interpretation penalty cannot apply, as they did not make an interpretation of the tax laws.

The company has good systems in place from which the tax returns are prepared. The particular purchase was coded to repairs and maintenance. At the time of preparing the tax return, the office person did not check to ensure that items of expenditure that are not deductible for tax purposes were not included. Also, as the total repairs and maintenance for this year was substantially larger than the previous year, the office person should have been aware that it may not have been correct.

The taxpayer did not put its mind to the tax laws relevant to the claim – they did not make an interpretation. Therefore, the unacceptable interpretation standard will not apply.

However, a taxpayer in that category of taxpayer would be aware that they should have reviewed the expenditure in their accounts to ensure that capital expenditure was not included in the claim for deductible expenditure. The company did not do this so Inland Revenue would consider that it did not take reasonable care. Accordingly, the 20% penalty for not taking reasonable care would be imposed.

### **New business taxpayer with professional advisor – GST input claimed early**

A taxpayer has purchased a franchise to undertake garden maintenance and landscaping. The taxpayer is new to this type of business and is not familiar with the tax laws relating to self-employed people. The taxpayer also registers for GST.

The taxpayer engages the services of a tax advisor to provide tax law advice for both income tax and GST and also to prepare the income tax returns.

During a GST return period, the taxpayer purchased a section that is intended for use in the taxable activity. The taxpayer was told that a tax invoice would be made

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available soon, as the property was being purchased from a GST registered person. During the return period, the deposit had been paid and the contract became unconditional.

All of the relevant information was provided to the tax advisor. The advisor told the taxpayer to make the claim for the GST input credit for the entire purchase price of the section in the GST return. The tax advisor told the taxpayer that a tax invoice needed to be held but as it was to be made available shortly, the input claim could be made.

After the GST return is furnished, the taxpayer becomes aware that the vendor of the property is not GST registered. Therefore, the taxpayer has purchased a second-hand good from an unregistered person.

The GST return is audited and the GST input claim relating to the unpaid portion of the property is disallowed. The tax shortfall is based upon the application of a tax law and exceeded the threshold for requiring an acceptable interpretation.

Even though the taxpayer had not put his mind to the provisions of the law when taking his tax position, he had put his affairs in the hands of an advisor. The test is objective, so the efforts of the taxpayer are not taken into consideration.

The tax advisor asserts that the tax laws were not interpreted when the claim for the entire GST input credit was made. However, it is clear from the conversation with the taxpayer that the tax advisor had put his/her mind to the tax laws. The tax advisor was aware that the tax invoice was required when the advice was given. Therefore, the tax advisor had turned his/her mind to the tax laws.

The tax advisor, for the taxpayer, had clearly taken an unacceptable interpretation of the law. Accordingly, the 20% penalty for unacceptable interpretation would apply.

### **Business taxpayer with tax advisor**

The taxpayer is a property developer. He has been in business for a number of years and purchases houses and sections for development. He considers that the proceeds of one particular property that he has purchased and developed are not taxable because he and his family lived in the property for a short period of time prior to sale.

The taxpayer consults the advisor who advises, after reviewing the tax laws, that sale of the property is covered by the exemption in section CD 1(3) of the Income Tax Act 1994, and is therefore not taxable.

Inland Revenue considers that, as there has been a pattern of buying houses and living in them while renovating them prior to sale, that sale of the particular property is part of the taxpayer's gross income.

A tax shortfall is ascertained which exceeds the threshold for requiring an unacceptable interpretation, is based upon the tax law and is a tax position which, viewed objectively, is not about as likely as not to be correct. In this case, the tax advisor has turned his/her mind to the tax laws. Accordingly, the 20% shortfall for taking an unacceptable interpretation penalty is imposed.

### **No apportionment of GST input claim for assets not used in taxable activity**

A taxpayer registers for GST and purchases a farm that will be used in the taxable activity. Upon completing the first GST return, the taxpayer claims 1/9 of the total purchase price of the property. No apportionment is made for the fact that part of the property will not be used in the taxable activity.

The return is audited and the portion of the GST input claim relating to non-taxable supplies is disallowed. The tax shortfall is based upon the application of a tax law and is over the threshold requiring the taxpayer to have an acceptable interpretation.

When questioned, the taxpayer advises that they did not know that they could not claim a GST input credit for the portion of the property that did not relate to the taxable activity. The taxpayer claims that they did not interpret the law and did not consider it at all.

As the taxpayer did not interpret the law, the unacceptable interpretation penalty does not apply.

When completing the first GST return, a reasonable person in the taxpayer's circumstances would have inquired about which GST input credits could be claimed. A reasonable person would be expected to read Inland Revenue's GST guide or consult a tax advisor. The taxpayer didn't do this, so Inland Revenue considers that the taxpayer did not take reasonable care. Accordingly, a 20% penalty for not taking reasonable care would apply.

# GST returns – correcting minor errors

## Standard Practice Statement INV-490

### Introduction

This standard practice statement (SPS) states the Commissioner's operational policy on allowing GST registered persons to correct minor errors from earlier GST returns with an adjustment in a subsequent GST return. It replaces the item in Tax Information Bulletin Volume Four, No.7 of March 1993.

The purpose of the SPS is to provide a pragmatic solution for correcting GST return errors, consistent with promoting compliance and minimising compliance costs.

The amended SPS applies from 1 July 1998, and to adjustments made on or after this date, regardless of the return period when the error occurred.

### Background

The Institute of Chartered Accountants of New Zealand (ICANZ) asked Inland Revenue to revise the tolerance that had existed since 1993. This was timely because the standard practice review also looked at the impact of recent reforms such as the Compliance and Penalties regime and Disputes Resolution process.

The previous standard practice published in Tax Information Bulletin Volume Four, No.7 basically allowed a one-off correcting adjustment in the next available return, if correcting the error(s) would result in less than \$50 of tax to pay.

### Revised standard practice

Inland Revenue's revised standard practice uses the size of a registered person's annual turnover to limit the amount of an error that can be corrected in a subsequent GST return. We have used the \$250,000 statutory threshold for six-monthly returns as the cut-off point.

Registered persons may make the following error adjustments in a later return:

- Up to \$200 GST per return, for businesses with an annual turnover up to \$250,000
- Up to \$500 GST per return, for registered persons whose annual turnover is \$250,000 or more.

Registered persons can make these adjustments without having to adhere to the formal disputes resolution process. However, they must keep the following details as part of their return working papers, to be available to IRD on request:

- return period error occurred
- GST amount involved
- nature of error
- return period correction made

### Excepted situations

A registered person may have made adjustments to a number of return periods, or several like adjustments in varying periods. Such a situation may fall outside this concession and may be considered under the compliance and penalties provisions. Inland Revenue may review error adjustments when examining the registered person's records, and may consider such situations under the compliance and penalties provisions for lack of reasonable care or more serious penalties if appropriate.

### General discussion

#### GST legislation

The GST Act 1985 specifies how registered persons are to calculate their GST liability to be paid by due date for payment. It makes no provision for errors or method for correcting them.

#### Disputes resolution process

The disputes resolution process requires registered persons to issue a notice of proposed adjustment (NOPA – see section 89D(4), Tax Administration Act 1994) to the Commissioner, serving notice of their proposal to seek an assessment to make adjustments to GST returns to correct an error(s). For a NOPA to have effect, it must be sent to the Commissioner within the response period (2 months of the original self-calculated assessment) as per section 89D(5). If Inland Revenue receives a NOPA in time, we will consider the proposed adjustments and if we agree, alter the assessment.

If the response period has expired, the disputes resolution process does not provide a simple mechanism resolving errors other than Commissioner's discretion under section 113 of the TAA 1994. For the Commissioner to exercise discretion, registered persons or their agents would need to advise Inland Revenue of cases they seek to rectify and the reasons for filing amended GST returns. Such a process is cumbersome for Inland Revenue and presents additional compliance costs for registered persons.

To reach a pragmatic solution, Inland Revenue considered the Care and Management provisions.

#### Care and management

Section 6A(3) of the Tax Administration Act 1994 allows the Commissioner discretion, notwithstanding anything in the Inland Revenue Acts, consistent with the duty of the Commissioner to collect over time the highest net revenue that is practicable within the law having regard to all of the following –

- the resources available to the Commissioner
- the importance of promoting compliance, especially voluntary compliance, by all taxpayers with the Inland Revenue Acts
- the compliance costs incurred by taxpayers.

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The GST Act 1985 is specific on which adjustments can be made in future return periods. The Commissioner has used the Care and Management provisions to carry forward and update the previous operational policy as set out in Tax Information Bulletin Volume Four, No.7.

### **Compliance and penalties provisions**

The introduction of the compliance and penalties provisions signalled tougher rules on use of money interest when errors occur, to compensate Government for the period of omission. From 1 April 1997, the compliance and penalty provisions emphasised the need

for voluntary compliance with obligations to avoid use of money interest and other stringent penalties.

Inland Revenue views cases that resemble voluntary error corrections as low risk, so we will allow the means of simple resolution set out in this standard practice statement. The care and management provisions can be used to obtain resource efficiencies and promote compliance by encouraging self assessment corrections.

Tony Bouzaid  
National Manager Operations Policy



## 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.

### Debts acquired as part of merger – whether assessable

**Case:** Wrightson Limited (formerly Wrightson NMA Limited) v CIR

**Decision date:** 13 May 1998

**Act:** Income Tax Act 1976, section 65(2)

**Keywords:** *Assessability of profits derived from acquisition of book debts., merger, profits or gains, capital.*

**Summary:** Justice Heron found that assessing the profits derived on the recovery of debts was incorrect. The book debts arose as a result of a merger between the taxpayer and another stock and station agency.

**Facts:** Stock and station agencies provide a wide range of services to rural communities. One of these services is a credit and loan function, offering both short and long term credit facilities.

In 1986 WNMA acquired all the rural services of Dalgety Crown as part of a merger. This included Dalgety's book debts ('advance accounts') bearing a face value of \$117m. These were valued at \$104.3m being realisable value less 10%. The discount reflected the uncertainty of realisation of the debts as they were contingent upon the solvency of the individual debtors. The Objector was assessed by the Commissioner for tax liability of profits or gains derived on the debts acquired.

**Decision:** Justice Heron found that although the Objector carried out a substantial degree of money lending, that activity was integral to its essential characteristic as a stock and station agent.

His Honour found that as part of an overall merger transaction the debts were part of the capital acquired by WNMA. Rejecting any liability under s65(2)(a) and the third limb of (2)(e), he said:

"... the asset purchase of which the advance accounts were part was for the long term advancement of Wrightson in its stock and station activity. ... But as part of an overall merger type transaction, the accounts were part of capital acquired by Wrightsons."

His Honour considered that in the context of section 65(2)(l) the gains were from the business activities of Wrightsons and not from 'any other source.'

**Implications:** The Commissioner is considering whether to appeal.

## Retirement payment or redundancy payment – nature of sum received

**Case:** William Cranson v CIR

**Decision date:** 25 May 1998

**Act:** Income Tax Act 1976, section 68(2)

**Keywords:** *Retirement v redundancy*

**Summary:** This was an appeal by the Commissioner from the High Court. Justice Heron found against the Commissioner and distinguished this case from *CIR v Lupton* as being “a different case from the facts”.

**Facts:** The Objector was employed for 44 years as a security advisor for Telecom and its predecessors.

In 1993 he was asked to take voluntary severance, as his position was surplus to requirements. The Objector elected to take redundancy with early retirement.

The Objector received a lump sum payment on his departure part of which was identified as “retiring leave”. The Commissioner assessed the entire amount as a taxable redundancy payment. The TRA (*Case T7(1997) 18 NZTC 8,033*) found for the Objector.

**Decision:** Justice Heron stated that he thought it was open to the Authority to say, in respect of contractual provisions of benefit to the taxpayer, which were operative, that the employee using those provisions negotiated a special deal by which he achieved a redundancy payment but retained a retirement payment:

“... it seems to me that there will be those rare cases where although the operative cause of the termination of the employment is redundancy ... the employee truly retires early and receives his entitlement by virtue of contractual entitlement under one head and not under another.”

**Implications:** The Commissioner is considering whether to appeal.

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## Forestry block sold early – cessation of activity for GST purposes?

**Case:** CIR v Norman Keith Edison Drummond, Robert Lane Chappell and Bruce Wyllie Mackrell as Trustees of the Norman Keith Edison Drummond Trust

**Decision date:** 15 May 1998

**Act:** Goods and Services Tax Act 1985, sections 6(2) and 51(1)(c)

**Keywords:** *Liability for GST registration*

**Summary:** This was an appeal by the Commissioner from the Taxation Review Authority (see notes in TIB Volume Nine, No.2, at page 5). Justice Gallen found that the Objectors were not to be deemed registered for GST as the termination of their enterprise was premature and fell within an exemption under section 51(1)(c)

**Facts:** Prior to 1974 the Objectors, acting as trustees of a family trust purchased a farm property and planted 26 hectares of that land with pine trees. The Deed of Trust was structured to run some 36 years.

In 1992 the trustees found themselves no longer able to manage the forest and decided to sell the afforested portion even though it had not yet reached full maturity. The Trust was not registered for GST and did not account for GST on the sale. The Commissioner assessed the proceeds of the sale as being subject to GST under the deeming provisions of section 51(1).

The Taxation Review Authority held that the Trust was not liable to be registered for GST because it had prematurely ceased its forestry business.

**Decision:** Justice Gallen found that what had been contemplated by the Trust was that the trees would be cultivated to maturity then sold. The Trust ceased that activity prematurely, in a sense that cessation took place at a time earlier than was otherwise contemplated in the life of the business. His Honour considered 'termination' of a taxable activity which section 6(1) deems to be accountable, as distinct from 'cessation' under section 51(1)(c), which is excepted. His Honour held, upholding the TRA decision, that 'cessation' has "at least an element that the activity has terminated prematurely", whereas "'termination' ... connotes the conclusion of an activity at its completion".

## **FBT on vehicles used by employees of earthmoving company**

**Case:** Lindsay G and Janette H Schick v CIR

**Decision date:** 15 May 1998

**Act:** Income Tax Act 1976, sections 336N(1) and 336S(2)

**Keywords:** *Fringe benefit tax, Employees use of vehicles, home, private or domestic.*

**Summary:** This was an appeal by the Commissioner from the Taxation Review Authority regarding the use by the Objector's employees of company vehicles (see TIB Volume Nine, No.2, at page 6). Justice Gallen, finding for the Objectors, held that the word "travel" when used in the definition of private use or enjoyment, means travel which confers a benefit of a private or domestic nature.

**Facts:** The Objectors are a partnership operating as earthmoving contractors. The business involves the excavation of land at clients' premises.

In order to travel to the particular work sites, four employees were supplied with motor vehicles, fitted with the necessary equipment. All employees signed agreements regarding the use of the motor vehicles. The agreements contained clauses stating that the vehicle must only be used between their residences and the work sites each day.

The Taxation Review Authority found in favour of the Objector on the basis that additional work activities were expected of the employees to be carried out from their homes and the employees needed to be available to carry out emergency work. Judge Willy found that the travel between the employees' home and work sites was business related travel.

**Decision:** Justice Gallen upheld Judge Willy's interpretation of "travel" in the context of s 336S(2): "...there was in fact no benefit to the employees in this case and that the definition of 'private use or enjoyment' was not sufficient to categorise the activities as taxable ... because 'home' where used in that particular definition was not apt to include a starting point or destination which was ... reasonably to be categorised as a workplace even if it also had the characteristics of a home.' As such, His Honour concluded that the Authority was right in the decision to which he came.

**Implications:** This is a significant decision in the area of fringe benefit tax. The Commissioner is considering whether to appeal.

## Whether the Commissioner can set retrospective due dates

**Case:** William Patrick Withey and Susan Margaret Withey v CIR

**Decision date:** 13 May 1998

**Act:** Income Tax Act 1976, section 398(5)

**Keywords:** *Due date for income tax payments*

**Summary:** This was a judgment confirming the interim judgment reported at (1998) 18 NZTC 13,606. The Commissioner is not empowered by legislation to set retrospective dates for the payment of due tax.

**Facts:** The taxpayers' 1987 tax (as assessed from the return) was due to be paid by 7 February 1988 and was so paid. However in 1992 the Commissioner reassessed an additional \$44,730 for the 1986/87 tax year under the tax avoidance provision s99(3) of the Income Tax Act 1976. A further sum of \$29,157 was claimed under s398(2) on the basis that the avoided amount was due on 7 February 1988. The taxpayer challenged the due date for income tax payment.

An objection was received. After a delay, in October 1996 a revised due date of 6 March 1992 was set under section 398(5); that date being prior to the decision to set a new date.

**Decision:** Justice Baragwanath held that the new date must always be prospective. Section 398(5) did not provide that the Commissioner could set a retrospective due date. Further, that until a 'new date' is set, no additional tax is payable.

"Where there has been no default there can be no occasion for the imposition of additional tax, which is to be characterised as a penalty for default. The law does not compel a citizen to do that which is impossible to perform"

**Implications:** The Commissioner is considering whether to appeal.

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## Power company – deductibility of replacing overhead cables with underground cables

**Case:** Poverty Bay Electric Power Board Limited v CIR

**Decision date:** 22 May 1998

**Act:** Income Tax Act 1976, section 108

**Keywords:** *Capital expenditure or revenue expenditure*  
*Repairs, Alterations*

**Summary:** Justice Ellis found for the Commissioner that replacing overhead cables with an underground network was an affair of capital that had the effect of enhancing the objector's asset structure. As such the expenditure constituted renewal rather than maintenance.

**Facts:** Poverty Bay Electric Power Board ("PBEPB") is an electricity supplier. The Objector supplies electricity from the East Coast to south of Gisborne.

PBEPB replaced urban overhead power lines in its area with underground cables and claimed a deduction for revenue expenditure of \$422,658 in respect of 14 of the sites.

The Commissioner disagreed and assessments were issued on the basis that the expenditure was in the nature of capital.

**Decision:** Justice Ellis accepted that the asset was a small area, namely Gisborne City and the laying of underground cables in that small area was capital expenditure and

non-deductible. His Honour also found that the alteration work increased the capital value of the urban reticulation system by at least the cost of the work. Having reviewed the authorities, his Honour held: "The works together and separately were part of [a] planned programme of renewal" Factors to consider are: the asset in question; the purpose of the work; the result of the work; the fiscal treatment by the taxpayer; the function of the new work; and the valuation of the work.

**Implications:** The Objector is expected to lodge an appeal.

## Tax avoidance – reverse takeover arrangements

**Case:** TRA No 93/126, 93/127, 93/128, 93/129, 96/167, 93/82, 93/123, 93/124, 93/154, 93/182, 93/180. Decision No 15/98

**Decision date:** 21 May 1998

**Act:** Income Tax Act 1976 s99(3)

**Keywords:** *Tax avoidance*

**Summary:** Judge Barber held that in terms of section 99 an arrangement such as the complex 'reverse takeover' template is void against the Commissioner for income tax purposes. His Honour criticised most submissions as 'reruns' of those put, and rejected in the *Miller, McDougall and Managed Fashions* cases.

**Facts:** This is another group of cases, involving four companies and ten individuals as Objectors flowing from an application of the JG Russell template (see *Miller & Ors v CIR* (1997) NZTC 13,219) Ten of the thirteen submissions of the Objectors had been well covered in the previous JGR cases but the Authority dealt with each insofar as the objectors' facts differed from previous decisions, or evidential and/or procedural matters required.

**Decision:** Judge Barber held that in terms of section 99 such a scheme or arrangement is absolutely void against the Commissioner for income tax purposes. The assessable income of persons affected by the arrangement is to be adjusted as the Commissioner considers appropriate in accordance with section 99(3).

Also, in the present circumstances the Commissioner must not confine himself to merely defining the character of the receipts and payments of the transactions entered into, but must look at the overall effect of the transactions and ascertain whether they had the purpose or effect of avoiding tax.

His Honour found it would be contrary to section 99(4) if, when individual taxpayers were assessed for the money taken out of the profit company by way of administration charges, there were no adjustments in favour of the profit company. The Commissioner has then granted a deemed deduction under section 44(4) of the administration charge to the profit company to avoid the same income being taxed twice.

Regarding the submission that the Commissioner merely went where the money was, His Honour held that if the perceived ability to pay were the only factor in making an assessment then such an assessment would be invalid, however that circumstance did not arise.

With regards to the consulting fee Judge Barber held that such would only be deductible where evidence was available that a genuine consulting service took place separately from and not in relation to the tax avoidance scheme.

## Redundancy payment received at time of early retirement

**Case:** TRA No 94/131. Decision No 11/98

**Decision date:** 19 May 1998

**Act:** Income Tax Act 1976, section 68(2)

**Keywords:** *Redundancy payment, retirement leave*

**Summary:** Judge Barber found in favour of the Commissioner, being bound by the High Court judgment of Williams J in *Lupton v CIR*.

**Facts:** The Objector had been employed by Telecom and had his employment terminated in 1993 on the basis that his position had been made surplus to Telecom's requirements.

At termination the Objector was 55 years old and had 38 years of service for Telecom. He received a lump sum voluntary severance payment, which was made up of severance pay and retiring leave. Telecom deducted PAYE from the entire payment. In the TRA the Objector contended that the retiring leave pay was separate from the redundancy payment and should be free of tax under the exemption in section 68(2)(b).

**Decision:** Judge Barber found that the payment made to the Objector was payable to him in terms of the definition of "redundancy payment" in section 68(1) of the Act and no part of it can be construed as a retiring allowance. His Honour found it was a situation of a voluntary redundancy and not a situation of early retirement. The issues were 'virtually identical' to the High Court judgment of Williams J in *Lupton v CIR* and as such his Honour was bound by that decision.

The Objector also submitted that the payment not be taxed until the following tax year. Judge Barber held that the Commissioner '... has no choice but to tax wage and salary earners on a cash basis i.e. in the year when the income is received.'

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## Business acquired from receiver as going concern – whether GST input claim allowable

**Case:** TRA No 97/82. Decision No 14/98

**Decision date:** 19 May 1998

**Act:** Goods and Services Tax Act 1985, section 11

**Keywords:** *Supply of a going concern, zero rated, express intention of parties.*

**Summary:** Judge Willy found that the Commissioner was correct in disallowing an input tax credit claim for GST

**Facts:** By agreement for sale and purchase of a business, the Objector purchased its business from a receiver. Clause 16(1) of the agreement said that unless otherwise expressly stated the parties were contracting on the understanding that the supply was a supply of a going concern and zero rated for GST purposes.

The Objector claimed a GST input tax credit claim on the basis that a valuation of certain assets for the purpose of the sale included a GST component. The Commissioner disallowed the claim.

**Decision:** In the TRA Judge Willy found that nowhere in the agreement did it expressly state that the supply was to be other than zero rated for GST purposes and found in favour of the Commissioner. The words of the agreement showed "... the clear intention of the parties and it is quite hopeless in my view for the objector to contend otherwise by reference to the way in which the valuation of the assets ... were carried out.'

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## Foreign tax credits disallowed – case dismissed for non-appearance

**Case:** TRA No 97/9. Decision No 12/98

**Decision date:** 19 May 1998

**Act:** Taxation Review Authority Act 1994 section 22(1)(a)

**Keywords:** *Foreign tax credits*

**Summary:** The Authority found in favour of the Commissioner as the Objector failed to appear.

**Facts:** The Objector owned music copyrights and derived income from customers overseas. The foreign customers deducted foreign withholding tax from the royalties due to the Objector.

The Objector's directors' policy was that the Objector would pay additional shareholders salaries from whatever profits remained each year. These profits would be calculated in the income tax accounts.

The Objector over-claimed foreign tax credits allowed and assessments were issued limiting the credits to be claimed.

**Decision:** The Objector failed to appear and the Authority invoked the provisions of section 22(1)(a) of the Taxation Review Authority Act 1994 to order costs of \$750 for non-appearance.

The objection was consequently dismissed and the Commissioner's assessments confirmed.

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# Compliance and penalties – concerns expressed by Institute of Chartered Accountants

Internal memorandum to Inland Revenue Staff, 17 February 1998

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*This item reproduces an internal Inland Revenue memorandum which went to all IRD staff in February 1998. This memorandum is part of a wide range of communication products available to staff. We have reproduced it here to show the steps that are taken to ensure that the penalties regime is administered in a consistent and appropriate manner.*

## 1. Introduction

Some criticism has been levelled at Inland Revenue over a number of months regarding the application of the shortfall penalty regime. Amongst other things there is a feeling that we are taking a “hard line” approach, being inconsistent and applying the provisions inappropriately.

Overall there can be little dispute that the number of assessments for shortfall penalties issued up to 31 December 1997; when compared to the number of adjustments made during the same period (11.6%), is not high. This is despite the fact that because of a wider range of offences than under the old penal tax regime there will be more cases. However a considerable amount of dialogue and discussion can take place **before** the issue of the assessment and, if this is not handled appropriately, can give rise to criticism and misunderstanding. We must be conscious of the fact that the application of the regime is governed by legislation and we should be ensuring that we are applying that legislation in a consistent and impartial manner.

## 2. Purpose of this memorandum

This memo is not intended to outline the overall departmental policy in relation to shortfall penalties. Explanations of the legislation and Departmental policy are outlined in a number of internal and external publications including:

- Tax Information Bulletin Volume Eight, No.7
- Compliance and Penalties Investigations Participant Package
- Standard Practice Statements
- Operations Policy Manual – Compliance Provisions
- IR 240 – Taxpayer Obligations, Interest and Penalties booklet
- IR 240J – New Shortfall Penalties Fact Sheet,
- Penal and Shortfall Penalties Procedural Manual.

I do however want to emphasise certain points. They are not changes in policy, but are mentioned to ensure they are followed in future cases where shortfall penalties are being considered.

## 3. Shortfall penalties in general – objectivity

The proposed imposition of a shortfall penalty is an objective test involving an analysis of the law to the relevant facts. In some cases, such as lack of reasonable care, there may be some subjective elements that follow, like the circumstances of the particular taxpayer, but even these have to be considered “objectively” by looking at what a reasonable person would have done in the circumstances.

By applying objectivity the proposed imposition of a shortfall penalty is based on fact. It **cannot** be used as a threat to obtain information or to enter into a discussion to obtain a settlement of a dispute. **It is not a bargaining tool. It either applies or it does not.** While, of course, there can be discussion as to whether the penalty is appropriate based on the facts, it should never be proposed in an attempt to ensure that a lower form of penalty “sticks”.

## 4. Lack of reasonable care

This form of shortfall penalty accounts for 80% of shortfall penalty assessments issued up to 31 December 1997.

The standard for this penalty is the cornerstone of the penalties regime, which requires taxpayers to act reasonably in the conduct of their tax affairs. It is a fluid concept that recognises the distinct characteristics of particular obligations and the different burdens placed on various taxpayers. The standard recognises taxpayers’ varying abilities and reflects a balance between the need for returns to be correct and the recognition of the difficulties taxpayers may face in ensuring they are correct.

Reasonable care is not intended to be overly onerous to taxpayers and does not mean perfection.

Circumstances that may be taken into account when determining whether a taxpayer has exercised reasonable care include:

- the complexity of the law and the transaction (the need to balance the complexity of the law with the category of taxpayer)
- the materiality of the shortfall (consideration must be given not only to the nature of the shortfall, but also the size of the shortfall in relation to the taxpayer)
- the difficulty and expense of taking the precaution (consider whether the types of controls in place are commensurate with the size and nature of the taxpayer)



- the age, health and background of the taxpayer
- the business's record keeping practices (commensurate with the size and nature of the business and the internal controls).

## 5. Tax agents/advisors

A taxpayer who has reasonably relied on the advice of a tax advisor will usually be considered to have exercised reasonable care. However they may still be exposed to a penalty for lack of reasonable care should they:

- fail to provide adequate information when seeking advice
- fail to provide reasonable instructions to a tax advisor, or
- unreasonably rely on a tax advisor or on advice (when they have reason to believe that the advice is not correct).

While an "agent error" is not grounds for imposing a shortfall penalty on the taxpayer, agents also have responsibility to obtain relevant information about their clients. Matters to be considered would include:

- whether or not a questionnaire was completed,
- was the information compiled accurately?
- was the questionnaire discussed with the client?

Taxpayers have a responsibility to fully and comprehensively advise their tax agents of their tax affairs.

## 6. Notice of Proposed Adjustment (NOPA)

In **all** cases where agreement is not reached with the taxpayer or agent regarding the imposition of a shortfall penalty a NOPA is to be issued. This is also the case where agreement is reached regarding the adjustments, but not the proposed penalties. Only if agreement is reached in respect of the penalties can an assessment for shortfall penalty be issued without progressing through the disputes resolution process. Although this tends to elongate the process this is a requirement by law and we must ensure proper procedures are followed.

## 7. Temporary shortfalls

There has been considerable criticism regarding the imposition of shortfall penalties where there has been little or no fiscal risk. This applies particularly when a GST refund check is made and a timing error is detected. There has been no time for the taxpayer to permanently reverse or correct the situation in a subsequent return period, and thereby benefit from the 75% reduction, nor has the taxpayer had the benefit of the refund. It is considered that the imposition of a 20% penalty is harsh in the circumstances.

Consideration has been given to whether a policy decision can be made to ease some of the concerns. As soon as a decision is made you will be notified. However even before this is done there is a possibility of a 40% reduction for a voluntary disclosure – see paragraph 8 below. (Note: The decision has now been made to change the policy – see Standard Practice Statement INV-230 in TIB Volume Ten, No.5 of May 1998.)

We however need to be certain in these cases that there is a breach of a standard by applying the objective tests. Just because there is a timing error does not mean automatically that a shortfall penalty will apply. The tests of complexity, materiality etc must be considered.

## 8. Reductions for voluntary disclosures

While there have been a number of reductions in the assessments issued to 31 December 1997 as a result of voluntary disclosures we need to remind ourselves that the provisions exist and encourage taxpayers to consider the options.

The 75% reduction occurs when a full voluntary disclosure is made **before** the taxpayer is first notified of a pending tax audit or investigation. The first notification could be in writing or by telephone. This latter form of contact is particularly prevalent in the cases of GST refund checks. If disclosure is made after receipt of the letter or the phone call, the only reduction available is 40%, providing it is made before the "start" of the audit or investigation. An audit or investigation starts at the earlier of:

- the end of the first interview,
- the records being inspected.

If, in the case of a GST refund check query the taxpayer sends in their documents and at the same time advises that their claim is incorrect, they would be entitled to a 40% reduction. If the taxpayer does not advise at this point and Inland Revenue examines the documents and notices the error, no reduction would arise.

## 9. Conclusion

The compliance and penalties regime is new and we are coming under a high level of scrutiny to ensure that we are applying the provisions in an appropriate manner in accordance with the law. While there will understandably be a larger number of cases involving shortfall penalties than under the old penal tax regime, we need to ensure that the objectivity tests overriding the legislation are given due heed.

Peter Barrand  
General Manager (Operations)

## 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
Bedding (medical and medical laboratories)	3	50	40	DEP30a	10.3:5
Bin (wool storage, live bottom)	15.5	12	8	DEP11	7.3:20
Books, published annually or more frequently	2	63.5	63.5	DEP32	10.3:3
Books, other	10	18	12.5	DEP32	10.3:3
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
Computer numerically-controlled drilling & routing machine (timber/joinery industry)	8	22	15	DEP33	10.4:40
Computer numerically-controlled tooling machine (timber/joinery industry)	8	22	15	DEP28	9.9:1
Containers (insulated, below 8m <sup>3</sup> )	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> )					6.5:7
Dance floor	20	9.5	6.5	DEP30	9.11:3
Delimbers, self-propelled, mobile (timber industry)	8	22	15.5	DEP35	10.6:5
Drilling & routing machine, computer numerically-controlled (timber/joinery industry)	8	22	15	DEP33	10.4:40
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
Motor vehicles rented for 1 month or less ( <i>various rates – see TIB article</i> )				DEP34	10.6:3
Mulchers (commercial)	4	40	30	DEP25	9.6:6
Newspapers		expense	expense	DEP32	10.3:3
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
Sound recordings (copyright in)	1	100	100	DEP31	10.3:2
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
Wind turbine generators	10	18	12.5	DEP36	10.6:6
Windmills	10	18	12.5	DEP36	10.6:6
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

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## Booklets available from Inland Revenue

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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.

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### General information

**Binding rulings (IR 115G) - Mar 1998:** 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.

**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.

**Payments and gifts in the Maori community (IR 278) - April 1998:** A guide to payments in the Maori community - income tax, PAYE and GST consequences.

**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 (ACC 450) - Mar 1998:** This book provides the rates of employer premium for employers and self-employed. The rates apply to earnings for the year ended 31 March 1998.

**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) - Sep 1997:** 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) - Feb 1998:** 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 1998:** 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.

**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) - Feb 1998:** 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) - Feb 1998:** 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 prisoners (CS 288) - Mar 1998:** *Information for prison inmates who have to pay child support.*

**Child support administrative reviews - how to apply (CS 69A) - Feb 1998:** *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 1998:** *Explains what steps people need to take if they want to go to the Family Court about their child support.*

**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.*

**Child support is working for children (CS 80) - Mar 1998:** *Brief summary of how child support works, plus some statistics on number of child support customers and amount collected/paid.*

**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.*

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## Due dates reminder

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### July 1998

- 5 Large employers: PAYE deductions and deduction schedules for period ended 30 June 1998 due.  
*(We will accept payments received or posted on Monday 6 July as in time for 5 July.)*
- 7 Provisional tax and/or Student Loan interim repayments: first 1999 instalment due for taxpayers with March balance dates.  
Second 1999 instalment due for taxpayers with November balance dates.  
Third 1998 instalment due for taxpayers with July balance dates.  
1998 income tax returns due to be filed for all non-IR 5 taxpayers with balance dates from 1 October 1997 to 31 March 1998.
- 20 Large employers: PAYE deductions and deduction schedules for period ended 15 July 1998 due.  
Small employers: PAYE deductions and deduction schedules for period ended 30 June 1998 due.  
FBT return and payment for quarter ended 30 June 1998 due.  
Gaming machine duty return and payment for month ended 30 June 1998 due.  
RWT on interest deducted during June 1998 due for monthly payers.  
RWT on dividends deducted during June 1998 due.  
Non-resident withholding tax (or approved issuer levy) deducted during June 1998 due.
- 31 GST return and payment for period ended 30 June 1998 due.

### August 1998

- 5 Large employers: PAYE deductions and deduction schedules for period ended 31 July 1998 due.
- 7 Provisional tax and/or Student Loan interim repayments: first 1999 instalment due for taxpayers with April balance dates.  
Second 1999 instalment due for taxpayers with December balance dates.  
Third 1998 instalment due for taxpayers with August balance dates.  
1998 income tax returns due to be filed for all non-IR 5 taxpayers with April balance dates.
- 20 Large employers: PAYE deductions and deduction schedules for period ended 15 August 1998 due.  
Small employers: PAYE deductions and deduction schedules for period ended 31 July 1998 due.  
Gaming machine duty return and payment for month ended 31 July 1998 due.  
RWT on interest deducted during July 1998 due for monthly payers.  
RWT on dividends deducted during July 1998 due.  
Non-resident withholding tax (or approved issuer levy) deducted during July 1998 due.
- 31 GST return and payment for period ended 31 July 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"/> <b>0018:</b> Amateur sports promoter exemption – application to non-residents   | 31 July 1998 |
| <input type="checkbox"/> <b>3507:</b> Available subscribed capital – calculation for successor energy companies to electric power boards and municipal electricity departments | 31 July 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.**

Affix  
Stamp  
Here

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

