

T AX INFORMATION BULLETIN

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This TIB has no appendix

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Where to find us

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General interest items

Proposed GST changes – discussion document

The Government's latest tax policy discussion document, *GST: A Review*, sets out proposed changes to the law arising from a recent review of GST legislation.

The discussion document was released earlier this month by Treasurer Bill Birch and Revenue Minister Bill English.

The review has highlighted several areas where change may be needed – to reduce compliance costs, bring the law up to date with developments in the commercial world, ensure that it does what it was intended to do, and close loopholes that lead to loss of revenue.

Proposed changes include:

- Raising the GST registration threshold from \$30,000 to \$40,000 a year. This would allow 25,000 entities – both individuals and small businesses – to stop accounting for GST if they so wish. Other GST thresholds would also be raised.
- Improving the rules for adjusting GST to reflect private use of business assets.

- Strengthening anti-avoidance legislation to stop people structuring transactions in such a way as to gain tax advantages.
- Tightening the rules on GST refunds, especially in relation to secondhand goods.
- Preventing zero-rating of services consumed in New Zealand but contracted for overseas. An example would be educational courses provided here but paid for by non-resident parents.
- Introducing numerous clarifications of the law in key areas such as financial transactions and software.

The closing date for submissions is 30 April, except for the proposal concerning zero-rating of services consumed in New Zealand but contracted for overseas. Its deadline is 26 March, since the Government has said it wants to introduce the necessary legislation into Parliament as soon as possible.

The proposed changes are described in detail in the discussion document. It is available from Bennetts Government Bookshops and on the Inland Revenue Website at www.ird.govt.nz.

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.

Notice of proposed adjustment – new coversheet Sections 3 and 89F, Tax Administration Act 1994

Introduction

Notices of proposed adjustment (NOPAs) must be accompanied by an IR 210 coversheet when filed. This is to allow Inland Revenue to identify them more readily and deal with them in a timely manner.

Background

A new process for resolving tax disputes has applied since 1 October 1996. The role of the NOPA within this process is to notify that an adjustment to an assessment is required. It formally initiates the disputes resolution process.

The Tax Administration Act currently prescribes what must be included in a NOPA. There is no requirement

for a particular form to be completed, but a form (IR 210) is available from Inland Revenue for this purpose. However, the information required can vary considerably depending upon the nature of the adjustment required, so taxpayers and their agents often prefer to file the NOPA in the form of a letter. These letters have not always been correctly identified as NOPAs when they arrived at Inland Revenue, causing problems with the disputes resolution time limits.

New requirement

The definitions of NOPA in section 3 and section 89F have been amended to require that NOPAs be accompanied by the IR 210 coversheet. This amendment applies from 1 April 1999.

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.

Judicial review – reassessment without prior notice immediately before statute bar

New Zealand Wool Board v CIR- Judicial Review

Decision date: 9 March 1999

Act: Judicature Amendment Act 1972

Keywords: Judicial review, abuse of power, notification

Summary

The NZ Wool Board's judicial review application against the Commissioner concerning its 1990 assessment was upheld.

Facts

The New Zealand Wool Board ("the Board") invested \$100 million in redeemable preference shares (RPS) which were part of a larger mandatory convertible note (MCN) tax avoidance scheme, included in the Winebox documents.

Inland Revenue reassessed the Board's 1990 return just before the statute bar in March 1995, to include its income from this investment. The Board applied for judicial review of the assessment, claiming that the process constituted an abuse of power on three grounds:

- The assessment was made without notice or dialogue, to which the Board had a legitimate expectation in the circumstances.
- The assessment was made without adequate inquiry of the Board's position, especially in relation to its knowledge of the larger tax avoidance arrangement.
- The assessment was made for the improper purpose of countering highly publicised criticism of the IRD in Parliament and in the Winebox Inquiry.

Decision

Adequacy - Durie J said the test is whether in the circumstances of a particular case the Commissioner has acted fairly towards the taxpayer and made an honest judgement. In this case the questions were, first, whether the Commissioner had before him sufficient information

for an honest judgement, and second, whether, in the circumstances, he ought to have inquired further.

Durie J found that the Commissioner should have sought the Board's view on its understanding of the alleged indicators of avoidance in the investment proposal document, and by not doing so, he exposed himself to bringing into account matters extraneous to the Board when reassessing it.

Therefore there was not an honest judgement in the administrative law sense and an abuse of power in the administration of process.

Legitimate expectation - His Honour found that the combination of circumstances gave rise to a legitimate expectation of notice and discussion in this case – the prior settlement of the Board's tax liability at the conclusion of an audit, the open process adopted in that audit, and the Board's ostensible lack of knowledge of the use to which its investment would be put and the commonality of discussion in avoidance and reconstruction cases.

Improper purpose - His Honour said that the essential question is not whether there was an improper motive in assessing, but whether an improper motive influenced the process when effecting an assessment and whether as a result that process was unfair to the taxpayer.

He suggested that the Commissioner's submission to the Winebox Inquiry that investors in MCN transactions might be reassessed, in combination with a failure to notify the taxpayer, was designed to assist in alleviating public criticism for failure to recover without challenge from the Board. He found that the Commissioner's failure to notify the Board was "explicable only in terms of the winebox pressure" and that, in considering the proper course to take, "the Commissioner's mind was directed more to the inquiry and less to the taxpayer who ought to have been his primary consideration". As a consequence he upheld the claim of improper purpose.

The Department and counsel are considering whether to appeal the decision

Sole trustee – whether licensed gaming machine operator

Dick v CIR: Vocation Education Foundation

Decision date: 11 February 1999

Act: Gaming Duty Act 1971

Keywords: Gaming licence, society

Summary

The sole trustee of a trust was found not to be a “society” for gaming licence purposes, and therefore to be an unlicensed gaming machine operator.

Facts

This was an appeal from a decision in the Commissioner’s favour at the TRA (reported as *Case S28 (1995) NZTC 7,194*).

The issue was whether the sole trustee of a trust came within the definition of “gaming machine operator” for the purposes of section 12B of the Gaming Duties Act 1971. The taxpayer argued that as a sole trustee she could not be “a society” but as a licensed holder (on the basis she was a “society” for the purposes of the Gaming and Lotteries Act 1977) she was not a person conducting dutiable games without a licence.

Decision

The Judge accepted the TRA conclusion that the trustee of herself was not an association of persons such as to constitute a society. But the Judge also accepted that, as the trustee was not a society, the licence the trust held was invalid as the Minister had no statutory authority to issue licences to persons other than societies. At page 7 of the judgment:

“I do not consider it inappropriate in the present context to interpret “licence” in terms of the second limb of the definition as meaning valid licence. However I am of the view that a similar result can be achieved without reading any words into the statute. In terms of section 8 of the Gaming and Lotteries Act, the only form of licence the Minister is authorised to grant is a licence to a “society” which has applied for it. It follows that the only possible licence which could be contemplated in the definition of gaming machine operator is a licence issued to a society. As it is now conceded that the appellant is not a society, then the licence issued to the appellant was not a licence to a society as contemplated in the definition.”

The Judge concluded, from this, that the trustee was unlicensed and caught by the second limb of section 12B.

Judicial review – money seized under section 400

Moti Singh v CIR – judicial review

Decision date: 17 February 1999

Act: Income Tax Act 1976/Judicature Amendment Act 1972

Keywords: money seized, improper purpose

Summary

The Commissioner seized funds under a section 400 compulsory deduction notice, and retained them pending the outcome of a TRA case that was likely to have penal tax consequences. The Court held that this was not an improper purpose for retaining the funds.

Facts

The applicant prepared and filed income tax returns for others. He claimed false refunds in his own returns and also in his client’s returns. He kept all of the false refunds.

On 4 November 1992 the Commissioner issued default assessments in relation to the false refunds and also imposed additional tax. The applicant objected to the assessment and requested that a case be stated for hearing before the Taxation Review Authority.

On 4 November 1994 the Commissioner served a section 400 compulsory deduction notice on the applicant and seized \$86,894.04 from the applicant’s bank

accounts. On 12 December 1994 the Commissioner amended the applicant’s tax assessment and this reduced the tax owing by the applicant. The applicant objected to this assessment also and requested that a case be stated for hearing by the Taxation Review Authority. The applicant requested that the Commissioner refund him the difference between the amount of the second assessment and the amount seized as a result of the section 400 notice. The Commissioner refused to do so.

This decision was communicated to the applicant by letter dated 28 February 1995. On 8 June 1995 the applicant was convicted on 66 charges of filing false returns of income. On 6 July 1995 the applicant was convicted on six charges of theft in respect of refunds of tax made to others who were entitled to receive refunds.

The Commissioner then assessed the applicant for a substantial sum of penal tax, to which the taxpayer also objected. The Commissioner also commenced civil proceedings in the High Court to recover the false refunds made to the applicant. The applicant made the present judicial review application in relation to the Commissioner’s decision not to refund the balance of the monies held.

Decision

Justice Laurenson prefaced his decision by observing

that if the applicant was unsuccessful in his objection to the Taxation Review Authority then any question of a refund sought under section 400 would be effectively disposed of. Conversely, if the applicant was successful in his objection then he would be entitled to whatever refund that the Taxation Review Authority decided was appropriate. Either way, (and this point was conceded by the applicant) the outcome of the present judicial review application, in terms of any order leading to a refund, would be futile.

Justice Laurenson rejected a submission by the applicant that the Commissioner's decision of 28 February 1995 was for an improper purpose. The anticipated penal tax (contingent on the outcome of the Court decisions regarding the filing of false returns) would increase the tax owed by the applicant to a figure larger than the monies seized from the taxpayer's bank account. The Commissioner was correct to take this into account. Justice Laurenson also found that the Commissioner had not seized the monies alleged to provide security for his civil claim. Finally, Justice Laurenson found that the Commissioner genuinely believed that the section 400 deduction constituted an actual or potential tax liability.

Justice Laurenson rejected a submission by the applicant that the Commissioner had failed to take into account relevant considerations or had taken into account irrelevant considerations. His Honour found that the Commissioner had two reasons for retaining the money. Firstly, the Commissioner was of the view that the applicant's potential tax liability would be equivalent to the amount of the monies seized when the penal tax was finally assessed. Secondly, the Commissioner wanted to have the question of the ownership of the monies

determined by the Courts. Justice Laurenson stated that if the secondary reason had been the sole reason for the Commissioner's decision to retain the seized money then it would be difficult to see such an objective providing a proper basis for retaining the monies. However, in terms of *Poananga v State Services Commissioner* [1985] 2 NZLR 385 (CA) there was a duality of purpose here and the intention to retain the monies to have the Courts determine the ownership was a secondary consideration. The decision was made and could be properly justified in terms of revenue collection principles. The Commissioner would have been obliged to make the decision he did without any reference to a wish to preserve the monies pending the outcome of the prosecutions. This was the dominant purpose and the secondary consideration was simply an incidental advantage. Justice Laurenson made some obiter comments about the needs of public administration and the exercise of a duty of care to third parties by the Commissioner at this point.

The third issue was whether the Commissioner had breached any legitimate expectation by his actions. Justice Laurenson held that there had been no conduct by the respondent which could have created a legitimate expectation in the mind of the applicant in the present case.

The fourth issue was whether the Commissioner had acted unreasonably in making his decision. Justice Laurenson stated that the Commissioner's decision was properly formed within the statutory framework available to the Commissioner and accordingly the decision was not unreasonable. Justice Laurenson concluded that there was no basis for interfering with the Commissioner's decision.

Motel purchase – whether going concern

TRA 95/26, Decision 002/99

Decision date: 9 March 1999

Act: Goods and Services Tax Act 1985

Keywords: Going concern, prior agreement with Commissioner, estoppel

Summary

A motel purchased by the objectors was found to be a going concern, because at time of sale all the elements of a going concern were present, and the objectors expressed nothing to the contrary at that time. Further, the objectors' claim for estoppel on the basis of prior agreement with the Commissioner was not held, due to a lack of evidence of such an agreement.

Facts

The objector partnership claimed an input tax credit of \$33,333.34 in the period ending February 1993, relating to the purchase of a motel by the objector partnership.

The vendors issued a tax invoice marked "going concern" and have not returned any GST on the sale. The objector partnership has argued that the sale was not of a going concern.

Initially the Commissioner rejected this contention and took the view that the sale was of a going concern. He subsequently changed his mind made a refund. Following further investigations he again changed his position and reassessed the objectors on the basis that the sale was of a going concern and that no input refund was payable.

Decision

Judge Willy found in favour of the Commissioner on both issues. In regards to the estoppel point His Honour found that, on the facts of this case, the objector partnership had not made out any agreement with the Commissioner which compromised their claim or estoppel. Should those facts have existed, however, jurisdiction

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exists to enforce an agreement between the Commissioner and the taxpayer quantifying the taxpayer's liability at an agreed sum – see *IRD v Nullall, Auckland Gas Company v CIR*, dicta in *Miller v CIR, National Bank of New Zealand Limited v CIR, Golden Bay Cement Co. Limited v CIR*.

In regards to the going concern issue His Honour stated that in the end it comes down to a question of fact. He found that at the date of the transfer of the land and

buildings and the items set out in the Agreement for Sale and Purchase of a Business, all of the structure necessary to the running of a motel were present at the point of transfer of the assets. His Honour was satisfied that the vendors intended to sell this business as a going concern and the purchasers did not stipulate to the contrary. It was capable of being operated as a motel at the point of sale and it was in fact operated as such by the purchasers. Finally there is no express agreement to the contrary to be found in either of the written documents entered into between the parties.

Funds injected by Government – whether payment for services provided by trust

Chatham Island Enterprise Trust v CIR

Decision date: 10 March 1999

Act: Goods and Services Tax Act 1985

Keywords: Consideration for supply

Summary

The Court held that funds paid by Government to set up a trust to administer former Crown activities in the Chatham Islands were not consideration for a supply, because the Trust made no supplies to the Crown.

Facts

The Chatham Islands Enterprise Trust came into existence after concern over a number of decades regarding the responsibility and financial liability for essential services required by Chatham Islands residents. The Crown wished to remove itself from the role of provider and consequently established an Interim Board to look at possible solutions. It was decided that the Crown would establish a trust, the appellant.

At the heart of the plan was the injection of money which would ensure the infrastructure was retained and that the commercial operations could be developed from that point forward. The Government agreed to pay \$8 million in two instalments and the transfer the Crown assets.

In anticipation of this transfer, work was ongoing in setting up companies which were to take over the Crown assets, facilities and rights relating to the meat works, electricity system, airport facilities and likewise from the Chatham Islands County Council, plus the wharf facilities. Five companies were established.

The Commissioner charged GST on the payment by the Government of \$8 million, on the basis that this was consideration for the supply of services by the Trust.

The Commissioner was successful in the High Court. Heron J held that the payments totalling \$8 million were for a host of services to be supplied by the Trust. The

Government wanted to step out of a difficult position, which required supervision, expenditure and ultimate responsibility and accountability. Into its shoes stepped the Trust, which took over a multitude of responsibilities and obligations and undertook to co-ordinate and effect a replacement structure, quite different from the arrangement which preceded it. Hence the payments were made for a variety of services and were received in consideration for the Trust providing those services.

As to Counsel's respective argument involving section 5(6D) Heron J held that given his earlier conclusion that the Trust was conducting a taxable activity, the Commissioner must succeed under section 5(6D)(a) or (b).

The further requirement that such activities be carried on continuously or regularly was met by the multitude of tasks to be performed and sustained by the Trust in return for the monetary consideration.

Decision

Held by Keith J and Blanchard J:

The Trust did not make a supply of anything to the settlor in exchange for, or induced by, the payments; it was the recipient of an endowment to be held upon the terms of the deed. Nor can it be said that the Trust performed services for the beneficiaries in return for a consideration by the settlor. It acts on their behalf and in their interests. They are benefited by its activities. In the broadest sense, therefore, it may be said that because it serves their interests it is performing services for them. But there is no consideration passing to the Trust since the payments were not properly to be seen as inducement.

Held by Tipping J:

The money was not paid for any particular purpose and cannot be said to be in respect of or for the inducement of any services. The payments were not in response to the supply of any services. With the use of the money not in any way related to any particular purpose and not in any way circumscribed or mandated, I do not consider the relationship between the payments and the (assumed) services fulfils the definition of consideration. As a consequence, the trustees did not make the (assumed) supply of services in the course or furtherance of a taxable activity.

Film loss – whether a tax avoidance arrangement

TRA 98/5, Decision 003/99

Decision date: 12 March 1999

Act: Income Tax Act 1976

Keywords: Film loss claim, sham, tax avoidance arrangement

Summary

Willy DCJ concluded that there was not a sham, nor was there a tax avoidance arrangement.

Facts

The Objector was a member of a film syndicate (“the Partnership”) and in the year ended 31 March 1985 he claimed the sum of \$19,550 being his purported share of the losses incurred by the Partnership in the making of a film.

The film was a pre-1998 budget film. Under the Commissioner’s policy then in place the film’s cost of production was not allowed as a deduction, but was to be capitalised and then depreciated.

The partnership claimed to capitalise as production costs the sum of \$2,647,000. It then sought to depreciate that sum at the rate of 50% in the 1985 and 1986 tax years respectively.

A proportionate share of the loss was claimed as a deduction by each contributing special partner.

The Commissioner investigated the affairs of the Partnership, and reached the view that the film production costs were not in fact \$2,647,000, but \$933,000. In particular, the Commissioner considered that \$1,560,000 related to the purported limited recourse loan, which he considered was not genuinely spent and that \$267,000 really consisted of a circular and self-cancelling transaction, which, in his view, did not represent a part of the true cost of production.

The Commissioner considered the above-mentioned sums to constitute shams. Alternatively the Commissioner considered that section 99 of the Income Tax Act 1976 applied. He also considered that insufficient evidence had been provided to substantiate the sums as being “production costs” and hence he exercised his discretion not to allow a depreciation deduction under section 108 of the Income Tax Act 1976.

However, the Commissioner allowed the Objector to set off the sum of \$6,840 (being part of the share of his losses in the making of the film) against other income.

Decision

Willy DCJ was satisfied on the evidence that the loan advanced to the Partnership was spent on its behalf in paying a creative company for services which they provided to the Partnership towards making the film.

He concluded that “this is plainly no more than a straight forward commercial transaction...”.

The second sham argument related to the purported contribution by a production company of \$267,000 to the Partnership capital. If the Commissioner was correct then the Objector, the accountant and the parties to the deed of accession were involved in either an act of gross negligence or a fraud on the investors. Willy DCJ did not find any evidence which supported this conclusion.

Having held that the liability of the investors on the loan was real and subsisting and that the transaction was not a sham, his Honour considered that the section 99 argument had lost all force.

Finally, Willy DCJ held that there was no factual basis to support the Commissioner’s belief that the cost of the film was only \$933,000. Accordingly the Commissioner did not exercise his discretion lawfully when he disallowed the depreciation claims.

Booklets available from Inland Revenue

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

Some booklets could fall into more than one category, so you may wish to skim through the entire list and pick out the booklets that you need. To order any of these booklets, call the forms and stationery number listed under "Inland Revenue" in the blue pages at the front of your phone book. This is an automated service, and you'll need to have your IRD number handy when you call.

We publish this list in the TIB every March, June, September and December. Updates are available at other times from our website at <http://www.ird.govt.nz>. You can also download many of these booklets from our website.

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.

Gift duty (IR 654) - Jun 1998: Explains the duty payable on gifts.

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) - Mar 1998: 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 secondary tax codes and extra emolument rates (IR 184R) - May 1998: Explains the new rates and codes available from 1 July 1998.

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.

Provisional tax (IR 289) - Jun 1998: 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) - Jun 1998: 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 (IR 665) - Jun 1998: Explains what duty is payable on transfers of real estate and some other transactions. Written for individual people rather than solicitors and legal firms.

Student Loans - going overseas (SL 13) - Aug 1998: A brief guide to the student loan obligations of a borrower who goes overseas. This information is also included in the SL 5 booklet listed below.

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.

Student Loans - interest and calculations (SL 12) - Aug 1998: A brief guide how the interest on a student loan is calculated. This information is also included in the SL 5 booklet listed above.

Student Loans - making repayments to Inland Revenue (SL 14) - Aug 1998: A brief guide to repaying your student loan. This information is also included in the SL 5 booklet listed above.

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.*

Dairy farming (IR 252) - Jul 1998: *A guide to GST and PAYE obligations of dairy farmers.*

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-File (IR 343) - Dec 1998: *Explains the new electronic filing system for employers' monthly PAYE payments and information, introduced from April 1999.*

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.*

ir-File explaining electronic filing & how to register (IR 343) - Mar 1999: *General information about electronic PAYE filing for employers, how to register and step-by-step instructions on how to download and instal ir-File software.*

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 - 2000

- Weekly and fortnightly (IR 340)

- Four-weekly and monthly (IR 341)

Tables that tell employers the correct amount of PAYE to deduct from their employees' wages from 1 April 1999.

Retiring allowances and redundancy payments (IR 277) - 1998: *An explanation of the tax treatment of these types of payments.*

Smart Business (IR 120) - May 1998: *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 1998:*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 1998:*Information about the administrative review process, and how to respond if you are named in a review application.*

Child support and redundancy (CS 277) - Jul 1998:*An explanation of how becoming redundant can affect a paying parent's child support liability.*

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.*

Depreciation determinations issued since last update of IR 260 Depreciation booklet

This list shows all depreciation determinations we've issued since the last update of our Depreciation booklet (IR 260). It will enable you to check quickly 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.

We publish this list in the TIB every March, June, September and December. Updates are available at other times from TIBs on our website at:

<http://www.ird.govt.nz>

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
Bird netting (winegrowers)	5	33	24	DEP42	10.9:6
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
Comparators (consumer electronics comparative display units)	3	50	40	DEP39	10.8:3
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 ³)	5	33	24	DEP13	7.10:26
Containers (shipping)	20	9.5	6.5	DEP13	7.10:26
Crayfish (baby) – peurulus traps	1	100	100	PROV7	10.7:4
Crown Health Enterprise assets (<i>half a page of various assets - see TIB article</i>)					6.5:7
Cutting machines, laser	10	18	12.5	DEP43	11.2:4
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
Electricity revenue and data logging terminals (<i>two rates - see TIB article</i>)				DEP41	10.9:5
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

continued on page 00

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
Hi-trim shelter trimmers	10	18	12.5	DEP40	10.9:4
Hydrogen manufacturing unit and hydrocracker catalysts (oil/gas industry) (various rates – see TIB article)				DEP37	10.7:3
Ink mixing systems, computerised	3	50	40	DEP27	9.8:2
“Kiwiplus” – kiwifruit packhouse software	1	100	100	PROV6	9.6:8
Laser cutting machines	10	18	12.5	DEP43	11.2:4
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
Mulch – woven reflective	3	50	40	DEP38	10.7:4
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

Due dates reminder

April 1999

- 5 Large employers: PAYE deductions and deduction schedules for period ended 31 March 1999 due.
- 7 Provisional tax and/or Student Loan interim repayments: first 2000 instalment due for taxpayers with December balance dates.
- Second 1999 instalment due for taxpayers with August balance dates.
- Third 1999 instalment due for taxpayers with April balance dates.
- 20 Large employers: PAYE deductions for period ended 15 April 1999 due.
- Small employers: PAYE deductions and deduction schedules for period ended 31 March 1999 due.
- All employers: All IR 12 and IR 13 certificates for year ended 31 March 1999 must be completed, and yellow copies given to workers.
- FBT return and payment for quarter ended 31 March 1999 due.
- Gaming machine duty return and payment for month ended 31 March 1999 due.
- RWT on interest deducted during March 1999 due for monthly payers.
- RWT on interest deducted 1 October 1998 to 31 March 1999 due for six-monthly payers.
- RWT on dividends deducted during March 1999 due.
- Non-resident withholding tax (or approved issuer levy) deducted during March 1999 due.
- 30 GST return and payment for period ended 31 March 1999 due.

May 1999

- 5 Large employers: PAYE deductions for period ended 30 April 1999 due, and employer monthly schedule for whole of April 1999 due.
- 7 Provisional tax and/or student loan interim repayments: first 2000 instalment due for taxpayers with January balance dates.
- Second 1999 instalment due for taxpayers with September balance dates.
- Third 1999 instalment due for taxpayers with May balance dates.
- 20 Large employers: PAYE deductions for period ended 15 May 1999 due.
- Small employers: PAYE deductions and employer monthly schedule for period ended 30 April 1999 due.
- Gaming machine duty return and payment for month ended 30 April 1999 due.
- RWT on interest deducted during April 1999 due for monthly payers.
- RWT on dividends deducted during April 1999 due.
- Non-resident withholding tax (or approved issuer levy) deducted during April 1999 due.
- 28 GST return and payment for period ended 30 April 1999 due.
- 31 All employers: 1999 PAYE and ACC reconciliation and calculation sheet (IR 68A and IR 68P) due to be filed, and 1999 ACC residual claims levy to be paid.
- FBT - employers who elected to pay FBT on annual basis: annual liable return (1/4/98-31/3/99) and payment due.
- RWT on interest: 1999 reconciliation (IR 15S) to be filed.
- RWT on dividends: 1999 specified dividend reconciliation (IR 17S or IR 17SA) to be filed.
-

Binding rulings, interpretation statements, standard practice statements: your chance to comment before we finalise them

This page shows the draft public binding rulings, interpretation statements and standard practice statements that we now have available for your review. You can get a copy and give us your comments in these 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 other offices.

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

Name _____
Address _____

Standard practice statements

Comment Deadline

ED0002: Payment of debt by compulsory deductions from bank accounts

30 April 1999

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



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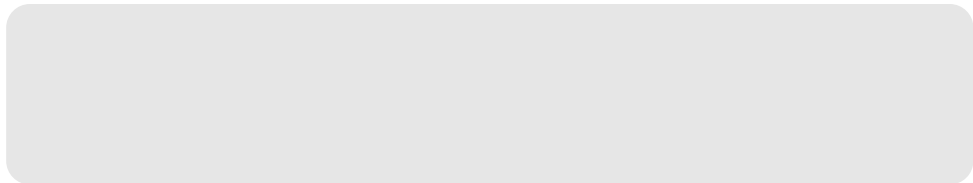
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