

TAX INFORMATION BULLETIN

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This TIB has no appendix

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It has other Inland Revenue information that you may find useful, including any draft binding rulings and interpretation statements that are available.

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THIS MONTH'S OPPORTUNITY FOR YOU TO COMMENT

Inland Revenue produces a number of statements and rulings aimed at explaining how taxation law affects taxpayers and their agents.

Because we are keen to produce items that accurately and fairly reflect taxation legislation, and are useful in practical situations, your input into the process—as perhaps a user of that legislation—is highly valued.

The following draft items are available for review or comment this month, with a deadline of 1 December 2003.

Ref.	Draft type	Description
IS3448	Interpretation statement	Travel by motor vehicle between home and work—deductibility of expenditure and FBT implications
IS0043	Interpretation statement	Income tax treatment of Treaty of Waitangi settlements
ED0048	Standard practice statement	Reduction of shortfall penalties for previous behaviour

Please see page 18 for details on how to get a copy.

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.

FRESH COSTS ASSESSMENT MADE BY THE HIGH COURT

Case:	Brent Leroy Miller and Ors v CIR; Managed Fashions Limited and Ors v CIR
Decision date:	20 August 2003
Keyword:	Costs

Summary

The High Court made a further reassessment of costs after being directed to by the Court of Appeal. Costs of \$41,500 were awarded to the Commissioner (a reduction from the original award of \$80,000).

Facts

This decision was a fresh costs assessment in respect of three decisions relating to the JG Russell tax avoidance template: *Miller v CIR; McDougall v CIR (No 1)* (1996) 18 NZTC 13,001, *Miller v CIR; McDougall v CIR (No 2)* (1997) 18 NZTC 13,127 and *Miller v CIR; McDougall v CIR; Managed Fashions Ltd v CIR* (1997) 18 NZTC 13,219. The High Court Judge, Baragwanath J, had originally awarded some \$80,000 to the Commissioner, who had been largely successful in those decisions.

In a decision dated 19 August 2002, the Court of Appeal allowed an appeal by the taxpayers against the costs awarded against them: *Miller and Ors v CIR; Managed Fashions Ltd and Ors v CIR* (2002) 20 NZTC 17,826.

The Court of Appeal was concerned about certain aspects of the costs awarded against the litigants in the *Miller* cases, compared to the litigants in *Kemp and Ors v CIR* (1999) 19 NZTC 15,110 (who had costs awarded to them). *Kemp* was a judicial review action taken by certain participants in the JG Russell template who had tried to enforce an ultra vires settlement with the Commissioner. Those taxpayers were unsuccessful, but had costs awarded to them. The *Miller* taxpayers also

entered into ultra vires settlements, but after the Commissioner resiled from them, they did not try to enforce them but challenged (and reviewed) the assessments themselves.

The Court of Appeal sent the matter back to Baragwanath J for redetermination of the costs, in light of the *Kemp* decision.

The Commissioner argued that costs should be set in accordance with the *Auckland Gas* principle (*Auckland Gas Company Limited v CIR* (1999) 19 NZTC 15,027), and that the taxpayers should pay some \$108,000.

The taxpayers argued that, like the litigants in *Kemp*, they should be entitled to costs in respect of their unsuccessful litigation. It was submitted that the Commissioner should pay costs of some \$217,000.

Decision

Baragwanath J discussed the *Kemp* situation, in comparison to the situation of the present taxpayers. His Honour noted that their loss was different from that of the *Kemp* litigants. At paragraph [53] he stated:

Their loss has been the time and trouble entailed in the settlement negotiations and the dashing of their expectations by the Commissioner's taking the vires point. That loss is not one which the law recognises and they have achieved no success in their litigation, in which the proceedings in this Court were an intermediate stage between the Taxation Review Authority and the Court of Appeal.

Baragwanath J considered that the most appropriate way to take into account the Crown's unacceptable behaviour (the defunct settlements) was to make a deduction (determined to be \$10,000) from each couple's costs, equivalent to notional compensation for the "worry and nuisance" of the failed settlements. However, the Judge did not consider that the costs should be awarded on the greater *Auckland Gas* basis, as that would not give full weight to the Court of Appeal's decision.

Baragwanath J awarded the Commissioner \$41,500 costs. No costs were awarded in respect of this decision.

STRIKE-OUT DECISION UPHELD BY THE COURT OF APPEAL

Case:	John George Russell and Ors v Taxation Review Authority and CIR
Decision date:	27 August 2003
Act:	New Zealand Bill of Rights Act 1990, Tax Administration Act 1994
Keywords:	Judicial review, strike-out

Summary

The Court of Appeal upheld the High Court's decision striking out the fourth cause of action.

Facts

This case relates to the JG Russell template. The template has been held to constitute tax avoidance in all New Zealand courts, including the Privy Council (see *Miller v CIR* [2001] 3 NZLR 316). In early 2000, Mr Russell and a number of companies associated with him and his tax avoidance template brought judicial review proceedings against the Commissioner and the Taxation Review Authority ("TRA"). The review proceedings consisted of five causes of action.

Four of the five causes of action were struck out or stayed by Fisher J in October 2000 (*Russell v Taxation Review Authority* (2000) 19 NZTC 15,924). That decision was upheld by the Court of Appeal (*Russell v Taxation Review Authority* (2001) 20 NZTC 17,418). The appellants were refused leave to appeal to the Privy Council (*Russell v Taxation Review Authority* (2002) 20 NZTC 17,602). They sought special leave directly from the Privy Council to appeal, but that was also refused.

The remaining cause of action (the fourth) was not struck out by Fisher J but sent back to the appellants for them to amend into a recognisable cause of action, Fisher J stating "[t]he allegations are so badly pleaded that it is difficult to make much sense of them." This was done so. The Commissioner again applied to the High Court for the cause of action to be struck out and was again successful, this time before O'Regan J (*Russell v Taxation Review Authority* (2002) 20 NZTC 17,832).

This decision was an appeal of O'Regan J's decision striking out the fourth cause of action.

The fourth cause of action

The fourth cause of action alleged that the Commissioner acted unfairly in his conduct with the appellants, in particular by refusing to call the "correct" witnesses and in not complying with discovery obligations. Because of the Commissioner's conduct, certain decisions (including *Case R25*, *Case T52* and *Case T59*, and prospective hearings) of the TRA should be reconvened.

The appellants argued that the Commissioner is obliged by the common law, section 6 of the Tax Administration Act 1994, and section 27 of the New Zealand Bill of Rights Act 1990 to act honestly and fairly in his proceedings before the TRA. The obligations include an obligation to disclose relevant documents and ensure that witnesses are available for examination and cross-examination. The appellants alleged that the Commissioner had failed to comply with these obligations.

Decision

At the beginning of the Court of Appeal's decision, Gault P noted that the appellants appeared to be trying to get the TRA to conduct a broad-based review of the actions of the Commissioner:

[2] What [Mr Russell] is attempting to do, in the context of a challenge to the assessments of certain of the companies, is to conduct a wide-ranging enquiry before the Taxation Review Authority (TRA) into the processes of the Department. Because the Commissioner is not co-operating as Mr Russell considers he should, Mr Russell and his clients complain that they have been, or will be, denied fair hearings.

However, this type of inquiry is outside the role of the Authority, as recently discussed by the Court of Appeal in *Dandelion Investments Ltd v CIR* (2003) 21 NZTC 18,010. The role of the TRA is to determine the correctness of the assessments. Gault P further noted:

[10] In an objection proceeding the assessment is available and the onus is on the objector. The proceeding is to ascertain whether or not the assessment is correct. If it is shown to be wrong the taxpayer is entitled to have it corrected. There is little room for challenge to motivations of officers of the Department.

In respect of whether an investigation was required to determine whether the Commissioner had infringed section 99(4) of the Income Tax Act 1976, Gault P stated (also at paragraph [10]):

In either case there is to be kept in mind that the parties to the arrangements, and in particular Mr Russell, must know the details of the arrangements the subject of the assessments. They will know which of the parties have been assessed. It is not clear what more is needed to enable them to challenge the correctness of each assessment.

The Court of Appeal then went on to consider the issues before O'Regan J.

Section 27 of the Bill of Rights Act 1990

In the High Court O'Regan J did not completely dismiss the possibility of an action against the Commissioner by virtue of a breach of section 27. His Honour stated:

In the circumstances, while I have some real doubts about the proposition that there is any obligation imposed on the executive branch of government or a public official by section 27(1), it is appropriate to proceed on the basis that such a finding cannot be said at this stage to be untenable.

The Commissioner cross-appealed this finding.

The appellants argued that while the Commissioner does not have the power to make a determination in the TRA, his alleged conduct subverted the appellants' rights to justice in the TRA. They were therefore entitled to a remedy under section 27. Gault P rejected this analysis. At paragraph [27] he stated:

The right [under section 27] is to the observance of natural justice by any tribunal or public authority which has the power to make a determination in respect of obligations or interests protected or recognised by law. The TRA is the tribunal with power to make a determination; the Commissioner in the context of TRA proceedings is not. ...

[30] Accordingly, insofar as the appellants seek to maintain a cause of action for judicial review resting on section 27(1) and claiming relief against the Commissioner, we are satisfied it is untenable. On that point we go further than O'Regan J was prepared to go at the strike out stage and allow the cross-appeal.

Section 6 of the Tax Administration Act 1994

In the High Court O'Regan J had held that section 6 did not create rights or obligations akin to those created by the New Zealand Bill of Rights Act and therefore that it could not be the foundation of an action for the remedy sought by the plaintiffs.

Gault P agreed with O'Regan J:

[34] With reference to s6, we do not accept that the obligation upon the Commissioner to use his best endeavours to protect the integrity of the tax system renders any conduct (not involving a decision) which might be said to be inconsistent with that obligation amenable to judicial review. It was submitted that this statutory provision should be treated as giving "an expedient and inexpensive means to challenge the assessment". We do not agree. The primacy of the objection procedure has been consistently emphasised by this Court and was endorsed by the Privy Council in the Miller decision (para 18).

[35] Mr Judd emphasised that the claim is about process; the entitlement to a fair hearing. He maintained it has nothing to do with the correctness of the assessments. We do not follow that. To disregard the purpose of objection proceedings before the TRA is to take one's eyes off the ball.

[36] We agree with O'Regan J that s6 does not create or support the obligations contended for. But in any event, we have not been persuaded that, in focussing on the correctness of particular assessments, the Commissioner could be said not to be using his best endeavours to protect the integrity of the tax system.

The Scally Principle

The *Scally* principle (named after *R v Bolton Justices, ex parte Scally* [1991] 2 All ER 619) is a principle applied in some criminal cases "that a challenge may also lie where unfairness in the conduct of proceedings resulted in some failure on the prosecutor's part, even when no-one has been guilty of fraud or dishonesty..."

(*R v Criminal Injuries Compensation Board, ex p A* [1997] 3 All ER 745,761). The Court of Appeal upheld O'Regan J's decision and agreed that the principle was not one that applied in civil proceedings.

COMMISSIONER LOSES OUTPUT TAX REFUND CASE

Case: TRA Dec 22/03; TRA No 4/01

Decision date: 5 September 2003

Act: Good and Services Tax Act 1985

Keywords: Objection procedures, output tax.

Summary

Despite Commissioner's misgivings about how the case got before the TRA and as a consequence the Authority's jurisdiction, the Authority issued a "curative assessment" allowing the objection.

Facts

The taxpayer is a JG Russell-related entity. In the various GST periods it made GST returns showing outputs made and inputs paid. Subsequent to a TRA decision (*Case M107* and *Case M109*) it sought to recover its outputs paid on the basis the payments were in the nature of dividends. In convoluted proceedings this approach was upheld on procedural (not substantive grounds) in the Court of Appeal in *FB Duvall v CIR* (2000) 19 NZTC 15,658.

The taxpayer sought to file late amended returns for various periods seeking refund of output tax paid without repaying the input tax credits paid to the taxpayer in the same periods. The Commissioner has not accepted these late returns (treating them as late objections) nor has he determined his position in regard to the contents of those returns.

The taxpayer subsequently filed a NOPA and the Commissioner filed a case stated with the TRA to prevent the issue being determined on the basis the Commissioner failed to file a timely case stated (a protective case stated).

Decision

The Authority considered itself bound by the earlier Court of Appeal decision:

"...I accept that a careful analysis of the Court of Appeal decision in *Duvall* must lead me to conclude that I cannot do more than declare that *Duvall* is not liable for output tax, and order that the relevant assessments be amended by deleting the amounts shown as payable by way of

output tax, and that I do not have jurisdiction, nor evidence, to embark upon a consideration of whether or not the objector is entitled to the input tax credits” (para 25)

Although the Authority discusses whether or not the late objection had been accepted by the Commissioner or if it had, whether the objection had in fact ever been determined it failed to make any determination of these issues other than to decline to strike out the proceedings for want of jurisdiction (at para 9) apparently on the basis that the Authority has a jurisdiction to issue a “curative assessment” (at para 21).

TRA 049/02 – INTERIM DECISION

Case:	TRA 049/02
Decision date:	10 September 2003
Act:	Income Tax Act 1976
Keywords:	Wilfully misleading, accruals, business income, issue estoppel

Summary

The Authority allowed the CIR to reopen an otherwise statute-barred income tax year, on the grounds that the taxpayer’s return was wilfully misleading, but has requested to hear counsel further on the consequences of this.

Facts

In August 1987 the taxpayer entered into an agreement with a third party for the sale and purchase of certain horses. Clause 1.1 of the agreement provided for a purchase price of \$3,435,000. This was to be paid as follows:

- i. The sum of \$601,000 in cash on or before 31 August 1987
- ii. The balance of \$2,834,000 in cash on or before 31 August 1990

\$631,000 was paid on 31 August 1987 (\$30,000 service fees were included in the payment). Possession of the horses was given and taken on the same day.

Clause 2.1 of the agreement provided

“The purchase price payable in pursuance of Clause 1.1 hereof shall be adjusted in the manner set forth in the First Schedule hereto.”

In terms of the First Schedule, the purchase price was to be reduced if the value of the foals produced by certain groups of mares were less than certain specified amounts – the purchase price payable was linked to the value of the foals which each group of mares produced. The purchase price could vary from \$481,000 to \$2,350,000.

There was some uncertainty as to how the adjustments were to work, as there was no mechanism to refund the difference between \$481,000 and the \$601,000 already paid (should low-value foals be produced), and discrepancies as to the total amount payable appeared between the taxpayer’s evidence and the documentation, including the value at which the mares were brought into the taxpayer’s books.

In its return for the 1987 income year, the taxpayer claimed a deduction of \$3,105,000, being the \$631,000 cash paid and the \$2,474,000 unpaid portion of the purchase price (as entered into the taxpayer’s accounts under “sundry creditors”).

Unfortunately, within two months of entering into the agreement the New Zealand share market collapsed, which had adverse consequences for the bloodstock industry. In August 1988 some of the mares were transferred back to the vendor.

Around April 1989, the taxpayer and vendor entered into another agreement, under which the taxpayer transferred further horses back to the vendor. This was expressed to be in full and final settlement of all matters outstanding between the parties, ending all liability under the 1987 agreement. The value of the horses transferred back was given a nominal figure in the taxpayer’s accounts, but the accounts continued to show the debt as still owing.

After some correspondence with the taxpayer, the CIR assessed the tax on the “cancellation of the debt” as payable in the 1990 year. After completing the disputes resolution process, notices of claim and defence were filed. In the course of preparing his case, the CIR reconsidered the evidence and concluded that the correct year for which the taxpayer should have been assessed was the 1989 year. Judgment by admission was entered against the CIR for the 1990 year, and the disputes resolution procedures were recommenced for the 1989 year.

Decision

In issuing its interim decision, the Authority dealt first with the issue of the statute bar, as if this was resolved in favour of the taxpayer it would be decisive of the outcome. This required an analysis of the sale and purchase agreement and whether the return omitted “all mention of income which is of a particular nature or is derived from a particular source”, or was “wilfully misleading”.

After setting out the terms of the agreement and surrounding facts, the Authority turned to consider how the adjustment mechanism in the first schedule was to work:

“In my view the answer ... is that the “purchase price” of the mares is as stated in Clause 1.1 \$3,435,000 (exclusive of GST) Clause 1.2(b), and the first schedule, provides a mechanism for adjusting that price in the event the value of the foals produced by the mares does not meet agreed figures which are different for each of the partnership groupings.”

This being so, “the precise amount [of the purchase price] would not be knowable until three years after the signing of the contract” and “[t]he purchaser ... was not liable to pay the balance of the purchase price above the \$601,000 until that time arrived”.

Turning to the issue of whether the balance of the purchase price owing was caught by the accruals regime (and was, as a result, omitted income), the Authority reiterated the conclusion above and noted that “[v]iewed in this way nothing was remitted for the purposes of section 64F” and that there was “no accrual “income” which could trigger section 25(2).”

As regards whether the return was wilfully misleading, the Authority noted that:

“The only possible way in which it could be said that the 1989 return is wilfully misleading is if apart from returning assessable income it fails to bring back to account a deduction claimed in an earlier year which was not properly claimable by the taxpayer in that year. This could be triggered either by the effect of the 1989 agreement, or by the taxpayer reconsidering its earlier interpretation of the 1987 agreement.”

After discounting the latter possibility, the Authority turned to consider the significance of the 1989 agreement. It was the CIR’s submission that there was evidence to suggest that the taxpayer must have known its 1989 return was misleading—it failed to report in the accounts and tax return the fiscal consequences of the deed of 1989 cancelling the 1987 agreement.

On this point, the Authority noted that the accounts and returns were prepared by the disputant’s accountant, who knew nothing about the 1989 deed. However, the return was signed and the accounts approved by the principal of the taxpayer over two years after the deed was entered into by him.

“The principal says that he did not understand the taxation consequences of the deed, and while one can readily accept that he might not have understood the precise tax consequences that however cannot obscure the fact that on its own evidence he understood that from the signing of the 1989 deed the disputant was no longer liable (if it ever was) to pay any amount for the horses beyond the sum of \$601,000 (plus GST) paid pursuant to Clause 1.2(a) of the 1987 agreement.”

The Authority also refused to accept that “a man of the business experience of the alter ego of the disputant could have believed that money he knew he would never have to pay could nevertheless continue to be available as a current liability for income tax purposes.” This, in the Authority’s view, was a form of “wilful blindness to the obvious”.

That being the case, the Authority held that the CIR was entitled to form the opinion that the 1989 return was wilfully misleading, and was entitled to reopen the 1989 return and reassess. The Authority has requested to hear counsel further on the consequences of this—as the accruals and business income arguments (discussed

below) were rejected by the Authority, it is unclear on what grounds the CIR can reassess.

The CIR also contended that the unpaid portion of the purchase price was business income under section 65(2)(a) and/or (l), because it was a profit or gain derived from a business activity. However, before there can be income there must have been a remission, and as the Authority had already determined that the taxpayer was never committed to pay the balance of the purchase price, these contentions were rejected.

As regards the taxpayer’s issue estoppel argument, the Authority held that the “fact that [the CIR] wrongly sought to include the disputed item in the 1990 year but later recognised his error and discontinued that assessment and dispute, cannot prevent him seeking to do his duty for the 1989 year.”

The question of whether a new due date should be set was adjourned until counsel have been heard on the consequences of the CIR’s entitlement to reopen the 1989 year. No mention was made of whether the CIR was required to make an application under section 89L of the Tax Administration Act before making his assessment for the 1989 year.

COMMISSIONER NOT REQUIRED TO PAY GST REFUNDS

Case:	Almond Properties Limited v CIR
Decision date:	22 September 2003
Act:	Goods and Services Tax Act 1985
Keywords:	GST refunds

Summary

Taxpayer’s appeal of Master’s decision unsuccessful. Commissioner’s application of section 46 upheld and therefore Commissioner not required to pay GST refunds.

Facts

The appellants in this case were 45 companies that were property traders. The appellants were all registered on the payments basis. Under the transactions each company purchased an apartment in a Hobson Street development. They then on-sold the apartments to one of three companies on a deferred settlement basis. The three purchasing companies were registered on the invoice basis.

Under the transactions, the three purchasers paid deposits to the appellants. The appellants returned those deposits for output tax. The three purchasing companies claimed the GST on the full purchase price. However, the Commissioner disallowed the GST claims by the three

purchasers. As the refunds were not paid to the three purchasing companies they were not able to complete the purchase and the contracts were cancelled.

The appellants filed GST returns claiming a refund for the GST they had previously paid to the Commissioner on the deposits from the three purchasing companies. The Commissioner issued a letter advising that:

Under the provision of section 46(1)(b) of the Goods and Services Tax Act 1985 your refund will be delayed until Inland Revenue has reviewed the GST returns and their supporting documentation.

The appellants issued proceedings and sought summary judgment for the amount of the GST claimed by them. The basis of their summary judgment proceedings was that the Commissioner had no choice but to pay the GST refunds under section 46 of the GST Act.

Master Sargisson turned down the application for summary judgment. This decision was an appeal of Master Sargisson's decision.

Issue

Whether the Commissioner was required to pay the GST refunds under section 46 of the Goods and Services Tax Act 1985.

Decision

The decision in this case turned on the wording of section 46 of the GST Act.

The Appellants raised three arguments to support their appeal.

Their first argument was that under section 46(2) it was necessary for the Commissioner to apply his mind to the taxpayers' return and convey to them that he was "not satisfied" with the return. The Court dismissed this argument and held that the threshold for such dissatisfaction is a low one, and that the sending of a letter is all that is required.

Their second argument was that the request for information did not comply with the requirements of section 46. The Court dismissed this argument and held that it was enough to state that returns were to be reviewed and further information required, as well as advising there would be a delay pursuant to section 46(1)(b).

Their third argument was that under section 46(4), if the Commissioner requests further information and that information is provided then the Commissioner must make a further request within 15 days or pay the refund. The Court dismissed this argument as "misconceived".

LEGISLATION AND DETERMINATIONS

FOREIGN CURRENCY AMOUNTS – CONVERSION TO NEW ZEALAND CURRENCY

The tables in this item list exchange rates acceptable to Inland Revenue for converting foreign currency amounts to New Zealand currency under the controlled foreign company (CFC) and foreign investment fund (FIF) rules for the six months ending 30 September 2003.

The conversion rates for the first six months of each income year are published in the *Tax Information Bulletin* following the end of the September quarter and the rates for the full 12 months are published at the end of each income year.

To convert foreign currency amounts to New Zealand dollars for any country listed, divide the foreign currency amount by the exchange rate shown.

Table A

Use this table to convert foreign currency amounts to New Zealand dollars for:

- branch equivalent income or loss under the CFC or FIF rules under section CG 11(3) of the Income Tax Act 1994
- foreign tax credits calculated under the branch equivalent method for a CFC or FIF under section LC 4(1)(b) of the Income Tax Act 1994
- FIF income or loss calculated under the accounting profits, comparative value (except if Table B applies) or deemed rate of return methods under section CG 16(11) of the Income Tax Act 1994.

Key

X

Y

“X” is the exchange rate on the 15th day of the month, or if no exchange rates were quoted on that day, on the next day on which they were quoted.

“Y” is the average of the mid-month exchange rates for that month and the previous 11 months.

Example 1

A CFC resident in Hong Kong has an accounting period ending on 30 September 2003. Branch equivalent income for the period 1 October 2002 to 30 September 2003 is 200,000 Hong Kong dollars (HKD).

$$\text{HKD } 200,000 \div 4.2968 = \text{NZ\$}46,546.27$$

A similar calculation would be needed for an FIF using the branch equivalent or accounting profits methods.

Example 2

A taxpayer with a 31 March balance date purchases shares in a Philippines company (which is an FIF) for 350,000 pesos (PHP) on 7 September 2003. Using the comparative value or deemed rate of return methods, the cost is converted as follows:

$$\text{PHP } 350,000 \div 31.7922 = \text{NZ\$}11,008.99$$

Alternatively, the exchange rate can be calculated by averaging the exchange rates “x” that apply to each complete month in the foreign company’s accounting period.

Example 3

A CFC resident in Singapore was formed on 21 April 2003 and has a balance date of 30 September 2003. During this period, branch equivalent income of 500,000 Singapore dollars was derived.

- (i) Calculating the average monthly exchange rate for the complete months May–September 2003:

$$(0.9906 + 1.0024 + 1.0313 + 1.0239 + 1.0207) \div 5 = 1.0138$$

- (ii) Conversion to New Zealand currency:

$$\text{SGD } 500,000 \div 1.0138 = \text{NZ\$}506,900$$

Table B

Table B lists the end-of-month exchange rates acceptable to Inland Revenue for the six-month period ending 30 September 2003. Use this table for converting foreign currency amounts to New Zealand dollars for:

- items “a” (market value of the FIF interest on the last day of the income year) and “c” (market value of the FIF interest on the last day of the previous income year) of the comparative value formula
- foreign tax credits paid on the last day of any month calculated under the branch equivalent method for a CFC or FIF under section LC 4(1)(a) of the Income Tax Act 1994.

Example 4

A New Zealand resident with a balance date of 30 September 2003 held an interest in an FIF resident in Thailand. The market value of the FIF interest at 30 September 2003 (item “a” of the comparative value formula) was 500,000 Thailand baht (THB).

$$\text{THB } 500,000 \div 23.6422 = \text{NZ\$}21,148.62$$

Note: If you need an exchange rate for a country or a day not listed in these tables, contact one of New Zealand’s major trading banks.

Round the exchange rate calculations to four decimal places wherever possible.

Table A: Mid-month and 12-month cumulative average exchange rate

Country	Foreign currency to NZ \$		15-Apr-03 12-month rate	15-May-03 12-month rate	16-Jun-03 12-month rate	15-Jul-03 12-month rate	15-Aug-03 12-month rate	15-Sep-03 12-month rate
Australia	Dollar	AUD	0.9051 0.8859	0.8882 0.8906	0.8679 0.8911	0.8930 0.8933	0.8935 0.8962	0.8791 0.8978
Bahrain	Dollar	BHD	0.2064 0.1896	0.2168 0.1934	0.2188 0.1964	0.2219 0.1997	0.2213 0.2036	0.2196 0.2071
Canada	Dollar	CAD	0.7962 0.7742	0.7902 0.7810	0.7752 0.7870	0.8098 0.8000	0.8176 0.7969	0.7955 0.8011
China	Yuan	CNY	4.5357 4.1531	4.7593 4.2354	4.8102 4.3030	4.8758 4.4253	4.8550 4.4611	4.8320 4.5528
Denmark	Krone	DKK	3.7698 3.7243	3.7108 3.7210	3.6295 3.7072	3.8793 3.7492	3.8750 3.7596	3.8352 3.7788
Eupopean Community	Euro	EUR	0.5081 0.4989	0.5001 0.4985	0.4888 0.4967	0.5221 0.4994	0.5211 0.5036	0.5167 0.5061
Fiji	Dollar	FJD	1.0860 1.0473	1.0854 1.0542	1.0806 1.0588	1.1028 1.0653	1.1000 1.0738	1.0929 1.0808
French Polynesia	Franc	XPF	60.4224 59.3489	59.4337 59.2894	58.1450 59.0584	62.0607 59.3888	62.0310 59.8905	61.3801 60.1884
Hong Kong	Dollar	HKD	4.2706 3.9239	4.6093 4.0121	4.5271 4.0753	4.5931 4.1432	4.5758 4.2246	4.5484 4.2968
India	Rupee	INR	25.8133 24.1000	26.9394 24.5068	26.9722 24.8033	27.0914 25.1092	26.7638 25.4833	26.4476 25.7929
Indonesia	Rupiah	IDR	4,852.0550 4,512.7225	4,859.0000 4,565.7150	4,774.4300 4,614.6046	4,845.2250 4,651.6908	5,015.2850 4,732.0275	4,934.4100 4,789.7867
Japan	Yen	JPY	65.8575 60.7455	66.7933 61.4361	68.1000 62.1129	69.2529 63.1647	69.8238 64.4735	68.4027 65.3837
Korea	Won	KOR	670.1300 609.5588	687.1100 618.6338	692.6600 627.1517	692.7100 637.6950	690.9450 650.0221	682.9750 659.1713
Kuwait	Dollar	KWD	0.1643 0.1515	0.1717 0.1542	0.1734 0.1564	0.1767 0.1590	0.1757 0.1620	0.1734 0.1646
Malaysia	Ringgit	MYR	2.0822 1.9249	2.1850 1.9627	2.2083 1.9936	2.2384 2.0266	2.2289 2.0662	2.2182 2.1014
Norway	Krone	NOK	3.9914 3.7203	4.3054 3.7619	4.0088 3.7795	4.3518 3.8436	4.3288 3.9121	4.2756 3.9712
Pakistan	Rupee	PKR	31.4134 29.3751	32.9370 29.8629	33.2799 30.2392	33.7490 30.6607	33.6705 31.1974	33.4503 31.6649
Papua New Guinea	Kina	PGK	2.0200 1.9357	2.0447 1.9661	2.0272 1.9874	2.0204 1.9983	1.9740 2.0103	1.9465 2.0177
Philippines	Peso	PHP	28.5629 26.1713	29.6790 26.7758	30.7454 27.3290	31.2145 27.9146	31.9235 28.6031	31.7922 29.2189
Singapore	Dollar	SGD	0.9730 0.8865	0.9906 0.9006	1.0024 0.9122	1.0313 0.9278	1.0239 0.9461	1.0207 0.9616
Solomon Islands	Dollar	SBD	4.0520 3.6601	4.3147 3.7763	4.4109 3.8770	4.4731 3.9640	4.4621 4.0525	4.4336 4.1373
South Africa	Rand	ZAR	4.2744 4.7307	4.3853 4.7107	4.5142 4.6656	4.4708 4.6367	4.2950 4.5896	4.2830 4.5330
Sri Lanka	Rupee	LKR	52.8808 48.3234	55.5504 49.3234	56.1727 50.1457	56.9583 51.0304	56.5899 52.0733	55.4649 52.9378
Sweden	Krona	SEK	4.6357 4.5713	4.5821 4.5646	4.4366 4.5455	4.7694 4.5666	4.8053 4.6052	4.7092 4.6225
Switzerland	Franc	CHF	0.7605 0.7330	0.7565 0.7348	0.7523 0.7347	0.8094 0.7423	0.8060 0.7520	0.8051 0.7597
Taiwan	Dollar	TAI	19.0400 17.3075	19.8950 17.6563	20.1350 17.9679	20.2550 18.3192	20.1350 18.7088	19.8800 19.0142

Country	Foreign currency to NZ \$		15-Apr-03 12-month rate	15-May-03 12-month rate	16-Jun-03 12-month rate	15-Jul-03 12-month rate	15-Aug-03 12-month rate	15-Sep-03 12-month rate
Thailand	Baht	THB	23.2875	23.9947	23.9153	24.2814	24.2567	23.5705
			21.3147	21.6977	21.9987	22.3742	22.8004	23.1012
Tonga	Pa'anga	TOP	1.1897	1.2251	1.2388	1.2583	1.2561	1.2508
			1.0980	1.1177	1.1348	1.1544	1.1745	1.1917
United Kingdom	Pound	GBP	0.3479	0.3554	0.3469	0.3648	0.3665	0.3639
			0.3230	0.3265	0.3281	0.3325	0.3381	0.3430
United States	Dollar	USD	0.5476	0.5751	0.5806	0.5890	0.5868	0.5837
			0.5032	0.5132	0.5213	0.5300	0.5404	0.5497
Vanuatu	Vatu	VUV	69.4407	70.7492	69.3944	70.4214	70.5837	70.2127
			66.7244	67.3569	67.7148	68.1560	68.7441	69.2526
Western Samoa	Tala	WST	1.7095	1.7162	1.7418	1.7565	1.7553	1.7539
			1.6380	1.6514	1.6638	1.6768	1.6930	1.7074

Table B: End-of-month exchange rates

Country	Currencies	Code	30-Apr-03	30-May-03	30-Jun-03	31-Jul-03	29-Aug-03	30-Sep-03
Australia	Dollar	AUD	0.8972	0.8859	0.8734	0.8933	0.8952	0.8775
Bahrain	Dollar	BHD	0.2104	0.2175	0.2194	0.2192	0.2162	0.2237
Canada	Dollar	CAD	0.8054	0.7915	0.7852	0.8154	0.8005	0.8034
China	Yuan	CNY	4.6183	4.7780	4.8238	4.8295	4.7524	4.9220
Denmark	Krone	DKK	3.7413	3.6053	3.7801	3.8089	3.9178	3.8024
European Community	Euro	EUR	0.5041	0.4857	0.5095	0.5130	0.5275	0.5127
Fiji	Dollar	FJD	1.0888	1.0860	1.0896	1.0892	1.0961	1.0941
French Polynesia	Franc	XPF	59.9236	57.7410	60.5818	61.0034	62.7131	60.9033
Hong Kong	Dollar	HKD	4.3522	4.5010	4.5429	4.5426	4.5758	4.6053
India	Rupee	INR	26.2481	26.9678	26.9142	26.6696	26.7638	26.9476
Indonesia	Rupiah	IDR	4,858.61	4,820.3300	4,821.37	4,965.4200	4,889.15	5,005.4600
Japan	Yen	JPY	66.8441	68.2485	69.6671	70.0351	67.2862	65.8315
Korea	Won	KOR	677.3350	696.7250	695.2100	688.3400	676.3300	683.2400
Kuwait	Dollar	KWD	0.1671	0.1721	0.1746	0.1741	0.1721	0.1744
Malaysia	Ringgit	MYR	2.1201	2.1935	2.2144	2.2171	2.1817	2.2596
Norway	Krone	NOK	3.9287	3.8308	4.2194	4.1932	4.3790	4.1680
Pakistan	Rupee	PKR	32.0023	32.9758	33.4158	33.3365	32.8305	33.9707
Papua New Guinea	Kina	PGK	2.0389	2.0523	2.0168	1.9805	1.9219	1.9427
Philippines	Peso	PHP	29.2430	30.3174	30.8992	31.5203	31.1673	32.3798
Singapore	Dollar	SGD	0.9889	0.9943	1.0212	1.0211	1.0036	1.0265
Solomon Islands	Dollar	SBD	4.1623	4.3839	4.4266	4.4259	4.3702	4.5136
South Africa	Rand	ZAR	3.9589	4.6510	4.3575	4.2796	4.2259	4.2352
Sri Lanka	Rupee	LKR	53.9274	55.8484	56.3134	56.3170	55.2732	55.8549
Sweden	Krona	SEK	4.5940	4.3199	4.6726	4.7043	4.8543	4.5646
Switzerland	Franc	CHF	0.7601	0.7422	0.7862	0.7947	0.8109	0.7873
Taiwan	Dollar	TAI	19.4400	20.0300	20.1400	20.0400	19.5950	20.0600
Thailand	Baht	THB	23.6979	23.8439	24.1632	24.1826	23.4372	23.6422
Tonga	Pa'anga	TOP	1.2126	1.2350	1.2427	1.2347	1.2436	1.2576
United Kingdom	Pound	GBP	0.3499	0.3493	0.3531	0.3602	0.3639	0.3566
United States	Dollar	USD	0.5581	0.5773	0.5827	0.5826	0.5737	0.5944
Vanuatu	Vatu	VUV	70.6455	69.2356	69.8186	69.9264	70.0156	70.1941
Western Samoa	Tala	WST	1.7275	1.7375	1.7237	1.7239	1.7293	1.7546

REGULAR FEATURES

DUE DATES REMINDER

November 2003

5 Employer deductions and employer monthly schedule

Large employers (\$100,000 or more PAYE and SSCWT deductions per annum)

- *Employer deductions (IR 345) or (IR 346) form and payment due*
- *Employer monthly schedule (IR 348) due*

7 Provisional tax instalments due for people and organisations with a March balance date

20 Employer deductions

Large employers (\$100,000 or more PAYE and SSCWT deductions per annum)

- *Employer deductions (IR 345) or (IR 346) form and payment due*

Employer deductions and employer monthly schedule

Small employers (less than \$100,000 PAYE and SSCWT deductions per annum)

- *Employer deductions (IR 345) or (IR 346) form and payment due*
- *Employer monthly schedule (IR 348) due*

28 GST return and payment due

December 2003

5 Employer deductions and employer monthly schedule

Large employers (\$100,000 or more PAYE and SSCWT deductions per annum)

- *Employer deductions (IR 345) or (IR 346) form and payment due*
- *Employer monthly schedule (IR 348) due*

22 Employer deductions

Large employers (\$100,000 or more PAYE and SSCWT deductions per annum)

- *Employer deductions (IR 345) or (IR 346) form and payment due*

Employer deductions and employer monthly schedule

Small employers (less than \$100,000 PAYE and SSCWT deductions per annum)

- *Employer deductions (IR 345) or (IR 346) form and payment due*
- *Employer monthly schedule (IR 348) due*

These dates are taken from Inland Revenue's Smart business tax due date calendar 2003 - 2004

YOUR CHANCE TO COMMENT ON DRAFT TAXATION ITEMS BEFORE THEY ARE FINALISED

This page shows the draft binding rulings, interpretation statements, standard practice statements and other items 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.

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Name _____

Address _____

Draft interpretation statements

Comment deadline

- IS3448: Travel by motor vehicle between home and work—deductibility of expenditure and FBT implications

31 December 2003

- IS0043: Income tax treatment of Treaty of Waitangi settlements

31 December 2003

Draft standard practice statement

Comment deadline

- ED0048: Reduction of shortfall penalties for previous behaviour

30 November 2003

Items are not generally available once the comment deadline has passed

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

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