

# TAX INFORMATION BULLETIN

Vol 19, No 4  
May 2007

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## GET YOUR TIB SOONER ON THE INTERNET

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This *Tax Information Bulletin* is also available on the internet in PDF. Our website is at **[www.ird.govt.nz](http://www.ird.govt.nz)**

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

If you prefer to get the *TIB* from our website and no longer need a paper copy, please let us know so we can take you off our mailing list. You can do this by completing the form at the back of this *TIB*, or by emailing us at **[tibdatabase@ird.govt.nz](mailto:tibdatabase@ird.govt.nz)** with your name, details and the number recorded at the bottom of the mailing label.

## THIS MONTH'S OPPORTUNITY FOR YOU TO COMMENT

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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 item is available for review/comment this month, having a deadline of 21 May 2007:

<b>Ref.</b>	<b>Draft type</b>	<b>Description</b>
QB0050	Question we've been asked	Trustees in the context of the GST Act 1985: does a separate trustee capacity and personal capacity exist and do separate trustee capacities exist for trustees of multiple trusts

The following draft items are available for review/comment this month, having a deadline of 31 May 2007:

<b>Ref.</b>	<b>Draft type</b>	<b>Description</b>
QB0054	Question we've been asked	Trophies and animal products derived from the tourist, hunting and safari industry that are to be mounted in NZ—zero-rating
DDG0116	General depreciation determination	Rental car seats

Please see page 14 for details on how to obtain a copy.

## LEGISLATION AND DETERMINATIONS

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

### FOREIGN CURRENCY AMOUNTS – CONVERSION TO NEW ZEALAND DOLLARS

This article provides the exchange rates acceptable to Inland Revenue for converting foreign currency amounts to New Zealand dollars under the controlled foreign company (CFC) and foreign investment fund (FIF) rules for the twelve months ending March 2007.

To convert foreign currency amounts to New Zealand dollars for any country listed, divide the foreign currency amount by the exchange rate shown. Round the exchange rate calculations to four decimal places wherever possible.

If you need an exchange rate for a country or a day not listed in the following Tables A and B, please contact one of New Zealand's major trading banks.

#### Note

An overseas currency converter is available in the "Work it out" section of our website.

This calculator can only be used where your calculation would be done using Table A.

#### Table A

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

- branch equivalent income or loss under the CFC rules pursuant to section EX 21 (4) of the Income Tax Act 2004
- FIF income or loss calculated under the branch equivalent method pursuant to sections EX 38(1)(b) and EX 43 and CQ 2 (2) of the Income Tax Act 2004
- foreign tax credits calculated under the branch equivalent method for a CFC under section LC 4(1B) of the Income Tax Act 2004
- foreign tax credits calculated under the branch equivalent method for a FIF under sections EX 43(8) & (9) and LC 4(1B) of the Income Tax Act 2004
- FIF income or loss calculated under the accounting profits, comparative value (except if Table B applies, i.e. where the market value of the FIF interest as at the end of the income year or/and at the end of the preceding income year is not zero) or deemed rate of return methods under section EX 42(7), EX 44(7) and EX 45 (15) of the Income Tax Act 2004.

**The shaded box on Table A** is the exchange rate on the 15<sup>th</sup> day of the month, or if no exchange rates were quoted on that day, on the next working day on which they were quoted. (Top row for each country)

The non-shaded box is the average of the mid-month exchange rates for that month and the previous 11 months. (Bottom row for each country)

#### Example 1

A CFC resident in Hong Kong has an accounting period ending on 30 September 2006. Branch equivalent income for the period 1 October 2005 to 30 September 2006 is 200,000 Hong Kong dollars (HKD).

$$\text{HKD } 200,000 \div 5.0950 = \$39,254.17$$

A similar calculation would be needed for a 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 a FIF) for 350,000 pesos (PHP) on 7 September 2006. Using the comparative value or deemed rate of return methods, the cost is converted as follows:

$$\text{PHP } 350,000 \div 33.0110 = \$10,602.52$$

Alternatively, the exchange rate can be calculated by averaging the exchange rates that apply to each complete month in the foreign company's accounting period. (Shaded box on Table A)

#### Example 3

A CFC resident in Singapore was formed on 21 April 2006 and has a balance date of 31 March 2007. During the period from 1 May 2006 to 30 September 2006, branch equivalent income of 500,000 Singapore dollars was derived.

- (i) Calculating the average monthly exchange rate for the complete months May-September 2006.

$$.9815 + .9888 + .9818 + .9909 + 1.0404 = 4.9834 \\ \div 5 = .9966$$

- (ii) Conversion to New Zealand currency:

$$\text{SGD } 500,000 \div .9966 = \$501,705.79$$

## Table B

Table B lists the end-of-month exchange rates acceptable to Inland Revenue for the twelve month period ending 31 March 2007. 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 preceding income year) of the comparative value formula under section EX 44(1) of the Income Tax Act 2004.
- 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(1B) of the Income Tax Act 2004.

## Example 4

A New Zealand resident with a balance date of 30 September 2006 held an interest in a FIF resident in Thailand. The market value of the FIF interest at 30 September 2006 (item “a” of the comparative value formula) was 500,000 Thailand baht (THB).

$\text{THB } 500,000 \div 24.3885 = \$20,501.46$

## Currency rates 2007 – mid month (Rates table type 'A')

Country	Currency	Code	15-Apr-06	15-May-06	15-Jun-06	15-Jul-06	15-Aug-06	15-Sep-06	15-Oct-06	15-Nov-06	15-Dec-06	15-Jan-07	15-Feb-07	15-Mar-07
			12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate
Australia	Dollar	AUD	0.8457	0.8119	0.8443	0.8230	0.8273	0.8755	0.8754	0.8617	0.8802	0.8814	0.8861	0.8789
			0.9117	0.9014	0.8946	0.8883	0.8810	0.8774	0.8733	0.8671	0.8626	0.8589	0.8568	0.8576
Bahrain	Dollar	BHD	0.2346	0.2367	0.2337	0.2331	0.2364	0.2490	0.2476	0.2482	0.2594	0.2599	0.2614	0.2601
			0.2582	0.2556	0.2528	0.2511	0.2486	0.2471	0.2459	0.2452	0.2447	0.2444	0.2450	0.2466
Canada	Dollar	CAD	0.7141	0.6970	0.6918	0.6983	0.7074	0.7382	0.7474	0.7502	0.7963	0.8069	0.8218	0.8115
			0.8149	0.7979	0.7817	0.7717	0.7602	0.7521	0.7455	0.7404	0.7391	0.7387	0.7424	0.7484
China	Yuan	CNY	4.9989	5.0351	4.9781	4.9560	5.0137	5.2553	5.1942	5.1878	5.3936	5.3886	5.3908	5.3544
			5.5696	5.4978	5.4248	5.3721	5.3125	5.2737	5.2385	5.2118	5.1862	5.1653	5.1623	5.1789
Denmark	Krone	DKK	3.7927	3.6266	3.6696	3.6472	3.6788	3.8700	3.9076	3.8313	3.8989	3.9749	3.9436	3.8865
			4.2115	4.1657	4.1071	4.0642	4.0180	3.9827	3.9498	3.9078	3.8679	3.8408	3.8174	3.8106
European Community	Euro	EUR	0.5086	0.4858	0.4933	0.4895	0.4937	0.5190	0.5256	0.5143	0.5236	0.5340	0.5289	0.5219
			0.5654	0.5589	0.5510	0.5452	0.5390	0.5342	0.5300	0.5243	0.5190	0.5155	0.5124	0.5115
Fiji	Dollar	FJD	1.1040	1.0746	1.0850	1.0741	1.0822	1.1372	1.1366	1.1236	1.1482	1.1575	1.1663	1.1527
			1.1731	1.1641	1.1550	1.1481	1.1398	1.1355	1.1313	1.1261	1.1213	1.1182	1.1178	1.1202
French Polynesia	Franc	XPF	60.4630	57.8623	58.6342	58.2006	58.7030	61.9323	62.7340	61.4347	62.4599	63.7910	63.2032	62.3350
			67.2196	66.4555	65.5153	64.8303	64.0930	63.5411	63.0560	62.4071	61.7939	61.4049	61.0592	60.9794
Hong Kong	Dollar	HKD	4.8347	4.8729	4.8236	4.8160	4.8842	5.1397	5.1175	5.1316	5.3536	5.3821	5.4234	5.3942
			5.3245	5.2678	5.2115	5.1751	5.1245	5.0950	5.0715	5.0589	5.0491	5.0461	5.0620	5.0978
India	Rupee	INR	27.7157	27.9668	28.2261	28.3385	28.9623	30.3323	29.5927	29.4332	30.4474	30.4868	30.2525	30.1910
			30.0946	29.8731	29.6776	29.6123	29.4867	29.4517	29.3408	29.2267	29.0996	29.0955	29.1575	29.3288
Indonesia	Rupiah	IDR	5600.2850	5512.2650	5895.6850	5685.5950	5708.4550	6038.5100	6053.2000	6019.8450	6255.9600	6304.1750	6305.2250	6376.9850
			6597.9875	6494.9083	6419.7100	6342.1038	6240.3954	6152.4750	6070.1363	6005.4667	5950.4917	5930.9925	5937.7071	5979.6821
Japan	Yen	JPY	73.4085	68.9360	71.4622	71.8729	73.2461	77.6216	78.6661	77.5593	81.1183	83.0461	83.8186	80.5147
			77.9364	77.3149	76.8200	76.4923	76.1502	76.1109	76.0538	75.7836	75.6673	75.9379	76.3248	76.7725
Korea	Won	KOR	595.4400	586.2650	598.4250	590.8900	606.2750	633.1050	627.5600	617.7650	634.7950	649.3750	651.8100	654.2900
			690.4079	679.6042	669.6433	660.7092	651.4613	643.7004	635.4004	627.9800	621.5763	618.1933	618.1138	620.4996
Kuwait	Dollar	KWD	0.1817	0.1834	0.1792	0.1788	0.1812	0.1909	0.1899	0.1903	0.1988	0.1992	0.2005	0.1993
			0.2000	0.1980	0.1957	0.1942	0.1921	0.1908	0.1897	0.1890	0.1884	0.1880	0.1883	0.1894
Malaysia	Ringgit	MYR	2.2876	2.2516	2.2850	2.2747	2.3123	2.4319	2.4228	2.4018	2.4479	2.4313	2.4332	2.4312
			2.5787	2.5407	2.5072	2.4829	2.4545	2.4347	2.4176	2.4032	2.3848	2.3696	2.3633	2.3676
Norway	Krone	NOK	4.0024	3.7695	3.8598	3.8637	3.0793	4.3008	4.4225	4.2260	4.2697	4.4451	4.2825	4.2290
			4.4698	4.4056	4.3430	4.2973	4.1807	4.1647	4.1578	4.1338	4.1002	4.0905	4.0638	4.0625
Pakistan	Rupee	PKR	37.1678	37.4989	37.1490	37.1485	37.6393	39.6847	39.6409	39.7243	41.7186	41.7838	41.9362	41.6196
			40.7334	40.3535	39.9534	39.7155	39.3605	39.1657	39.0186	38.9530	38.9319	38.9502	39.1018	39.3926
Papua New Guinea	Kina	PGK	1.9012	1.9054	1.8873	1.8676	1.8825	1.9668	1.9418	1.9495	2.0303	2.0410	2.0403	2.0373
			2.0909	2.0668	2.0424	2.0241	2.0009	1.9863	1.9721	1.9627	1.9529	1.9466	1.9457	1.9543
Philippines	Peso	PHP	31.6361	32.1465	32.7839	32.1366	31.9235	33.0110	32.6238	32.6227	35.7384	33.6198	33.2057	33.1070
			36.7291	36.2185	35.7217	35.2761	34.6762	34.1486	33.6517	33.2967	33.1542	32.9340	32.8361	32.8796

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Country	Currency	Code	15-Apr-06	15-May-06	15-Jun-06	15-Jul-06	15-Aug-06	15-Sep-06	15-Oct-06	15-Nov-06	15-Dec-06	15-Jan-07	15-Feb-07	15-Mar-07
			12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate	12 month rate
Singapore	Dollar	SGD	0.9963	0.9815	0.9888	0.9818	0.9909	1.0404	1.0409	1.0249	1.0588	1.0620	1.0643	1.0568
			1.1355	1.1192	1.1028	1.0898	1.0752	1.0630	1.0521	1.0408	1.0311	1.0248	1.0222	1.0240
Solomon Islands	Dollar	SBD	4.7278	4.7367	4.7094	4.6748	4.6922	4.9569	4.8059	4.9257	4.6649	5.2486	5.0004	5.0294
			5.1499	5.1040	5.0575	5.0281	4.9806	4.9516	4.9191	4.9038	4.8498	4.8474	4.8388	4.8477
South Africa	Rand	ZAR	3.7805	3.9007	4.2671	4.4616	4.3112	4.8976	4.9146	4.7733	4.7988	4.9781	4.9917	5.1301
			4.3686	4.3239	4.2763	4.2758	4.2618	4.2959	4.3271	4.3412	4.3685	4.4335	4.5049	4.6004
Sri Lanka	Rupee	LKR	63.6981	64.3297	63.9320	64.1266	65.0375	67.7389	68.9628	70.7998	74.1887	74.4424	75.1710	75.1625
			69.2682	68.7269	68.1738	67.8942	67.4002	67.0897	66.9732	67.1166	67.3220	67.6040	68.1557	68.9658
Sweden	Krona	SEK	4.7273	4.5487	4.5558	4.4823	4.5259	4.7970	4.8563	4.6543	4.7313	4.8512	4.8368	4.8444
			5.2832	5.2329	5.1595	5.0973	5.0350	4.9875	4.9385	4.8625	4.7941	4.7511	4.7139	4.7009
Switzerland	Franc	CHF	0.7972	0.7545	0.7650	0.7641	0.7803	0.8265	0.8371	0.8200	0.8363	0.8608	0.8605	0.8384
			0.8764	0.8667	0.8551	0.8462	0.8378	0.8324	0.8277	0.8213	0.8156	0.8131	0.8112	0.8943
Taiwan	Dollar	TAI	20.2300	19.7400	20.2750	20.2450	20.5600	21.7650	21.8400	21.6350	22.4700	22.6300	22.9150	22.8200
			22.2192	22.0054	21.8404	21.7300	21.5633	21.4425	21.3217	21.2279	21.1379	21.1608	21.2567	21.4271
Thailand	Baht	THB	23.4737	23.5025	23.6267	23.2879	23.2505	24.4190	24.3726	23.7361	24.0797	24.6442	22.8921	22.5294
			27.3708	27.0029	26.5860	26.1961	25.7509	25.3946	25.0758	24.7368	24.3496	24.1193	23.8409	23.6512
Tonga	Pa'anga	TOP	1.3026	1.2565	1.2582	1.2484	1.2576	1.3351	1.3210	1.3342	1.3793	1.4044	1.3784	1.3607
			1.3578	1.3501	1.3432	1.3374	1.3291	1.3259	1.3219	1.3206	1.3172	1.3163	1.3158	1.3197
United Kingdom	Pound	GBP	0.3523	0.3318	0.3373	0.3369	0.3328	0.3514	0.3544	0.3478	0.3513	0.3523	0.3539	0.3568
			0.3853	0.3809	0.3764	0.3724	0.3676	0.3645	0.3613	0.3576	0.3537	0.3503	0.3474	0.3466
United States	Dollar	USD	0.6236	0.6289	0.6217	0.6197	0.6283	0.6610	0.6575	0.6595	0.6893	0.6904	0.6945	0.6905
			0.6863	0.6793	0.6721	0.6674	0.6608	0.6569	0.6536	0.6517	0.6503	0.6496	0.6513	0.6554
Vanuatu	Vatu	VUV	70.3290	68.4600	69.0516	68.5177	69.0196	73.1735	73.0676	71.7793	72.5605	73.6940	73.4581	73.0138
			75.7222	74.9870	74.2795	73.8108	73.1616	72.8277	72.4931	72.1134	71.6795	71.4095	71.2510	71.3437
Western Samoa	Tala	WST	1.8927	1.8485	1.7311	1.7295	1.7312	1.8343	1.8165	1.8080	1.8571	1.8781	1.8673	1.7988
			1.8878	1.8853	1.8729	1.8651	1.8530	1.8462	1.8399	1.8321	1.8273	1.8248	1.8228	1.8161



## Currency rates 2007– end of month (Rates table type 'B')

Country	Currency	Code	30-Apr-06	31-May-06	30-Jun-06	31-Jul-06	31-Aug-06	30-Sep-06	31-Oct-06	30-Nov-06	31-Dec-06	31-Jan-07	28-Feb-07	31-Mar-07
Australia	Dollar	AUD	0.8377	0.8402	0.8178	0.8052	0.8500	0.8774	0.8653	0.8658	0.8871	0.8919	0.8878	0.8850
Bahrain	Dollar	BHD	0.2384	0.2412	0.2275	0.2328	0.2443	0.2475	0.2509	0.2553	0.2620	0.2596	0.2644	0.2688
Canada	Dollar	CAD	0.7132	0.7041	0.6708	0.6983	0.7198	0.7291	0.7496	0.7715	0.8025	0.8127	0.8179	0.8264
China	Yuan	CNY	5.0870	5.1467	4.8333	4.9298	5.1626	5.1872	5.2485	5.3200	5.4425	5.3613	5.4394	5.5193
Denmark	Krone	DKK	3.7759	3.7079	3.5617	3.6133	3.7680	3.8462	3.8954	3.8410	3.9334	3.9567	3.9574	3.9815
European Community	Euro	EUR	0.5056	0.4977	0.4783	0.4845	0.5057	0.5168	0.5234	0.5159	0.5283	0.5315	0.5310	0.5352
Fiji	Dollar	FJD	1.0992	1.0986	1.0619	1.0671	1.1087	1.1458	1.1361	1.1365	1.1604	1.1609	1.1678	1.1735
French Polynesia	Franc	XPF	60.0999	59.1547	56.7517	57.5994	60.1282	61.6441	62.4412	61.6219	63.0625	63.5103	63.5335	63.9471
Hong Kong	Dollar	HKD	4.9150	4.9683	4.6896	4.8012	5.0466	5.1141	5.1776	5.2745	5.4103	5.3796	5.4944	5.5764
India	Rupee	INR	28.1707	29.2718	27.6263	28.5161	29.8519	29.9641	29.6900	30.1165	30.7199	30.0822	30.6989	30.5730
Indonesia	Rupiah	IDR	5571.2750	5882.4500	5661.5650	5625.1450	5913.4600	6055.8250	6064.8700	6225.1000	6312.6650	6283.0000	6389.1900	6518.6150
Japan	Yen	JPY	72.3058	71.8186	69.4687	70.6899	75.9522	77.3434	78.1640	78.8627	82.2738	83.7696	83.3888	84.1780
Korea	Won	KOR	599.3400	605.7550	580.3850	589.7450	623.3450	620.4800	629.1300	631.5250	645.5350	649.6600	659.3600	671.5350
Kuwait	Dollar	KWD	0.1846	0.1850	0.1744	0.1785	0.1873	0.1898	0.1923	0.1958	0.2008	0.1990	0.2028	0.2060
Malaysia	Ringgit	MYR	2.3035	2.3189	2.2286	2.2676	2.3900	2.4243	2.4293	2.4651	2.4644	2.4173	2.4588	2.4701
Norway	Krone	NOK	3.9525	3.8969	3.7841	3.8265	4.0901	4.2480	4.3636	4.2428	4.3054	4.3215	4.2949	4.3411
Pakistan	Rupee	PKR	37.8001	38.3226	36.1056	37.0812	38.9075	39.5300	40.1114	40.9240	42.1546	41.5462	42.4303	43.1195
Papua New Guinea	Kina	PGK	1.9029	1.9358	1.8296	1.8500	1.9462	1.9312	1.9696	1.9929	4.4181	2.0004	2.0617	2.1073
Philippines	Peso	PHP	32.4303	33.4112	32.0503	31.7152	32.8134	32.7581	32.9091	33.4347	34.1105	33.4651	33.5546	34.0294
Singapore	Dollar	SGD	1.0016	1.0076	0.9585	0.9737	1.0185	1.0398	1.0374	1.0452	1.0696	1.0564	1.0713	1.0809
Solomon Islands	Dollar	SBD	4.7670	4.7464	4.6024	4.6856	4.9515	4.9450	4.9996	5.0106	5.2688	4.9764	5.1891	5.3896
South Africa	Rand	ZAR	3.9053	4.3144	4.3129	4.2392	4.5969	5.0283	4.9981	4.8400	4.8739	5.0246	5.0676	5.1916
Sri Lanka	Rupee	LKR	64.8478	65.6632	62.4924	64.0075	66.5985	67.8399	70.9699	73.0013	74.5394	74.5296	76.1579	77.7237
Sweden	Krona	SEK	4.7146	4.6183	4.4093	4.4708	4.6655	4.7753	4.8170	4.6750	4.7332	4.8006	4.9091	4.9814
Switzerland	Franc	CHF	0.7982	0.7758	0.7473	0.7614	0.7967	0.8183	0.8314	0.8209	0.8462	0.8620	0.8567	0.8687
Taiwan	Dollar	TAI	20.2450	20.5900	19.7100	20.2750	21.3400	21.6700	22.1750	22.0550	22.7000	22.7300	23.1500	23.6150
Thailand	Baht	THB	23.5748	24.2441	22.9029	23.1675	24.1328	24.3885	24.2395	24.4086	25.0336	23.3670	23.5659	22.7820
Tonga	Pa'anga	TOP	1.2664	1.2838	1.2417	1.2444	1.2980	1.3243	1.3388	1.3529	1.4011	1.3711	1.3941	1.3968
United Kingdom	Pound	GBP	0.3517	0.3402	0.3307	0.3318	0.3409	0.3501	0.3503	0.3487	0.3548	0.3512	0.3580	0.3638
United States	Dollar	USD	0.6340	0.6408	0.6041	0.6184	0.6492	0.6569	0.6663	0.6787	0.6962	0.6891	0.7035	0.7141
Vanuatu	Vatu	VUV	70.3090	70.2431	67.4336	68.1715	71.1917	72.6329	72.5939	71.9243	73.6486	73.1611	74.3954	74.8382
Western Samoa	Tala	WST	1.8609	1.8584	1.6857	1.7234	1.7821	1.8123	1.8206	1.8387	1.8859	1.8654	1.8749	1.9003

## QUESTION WE'VE BEEN ASKED

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This section of the *TIB* sets out answers to some enquiries we've received. We publish these as they may be of general interest to readers. A general similarity to items published here will not necessarily lead to the same tax result. Each case should be considered on its own facts.

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### QB 07/02: WHETHER THE MINOR BENEFICIARY RULE EXEMPTION IN SECTION HH 3B APPLIES ON A \$1,000 "PER BENEFICIARY" OR ON A \$1,000 "PER BENEFICIARY PER TRUST" BASIS.

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We have been asked to clarify the correct application of section HH 3B of the Income Tax Act 2004 (the minor beneficiary rule exemption).

This QWBA sets out the operational guidelines regarding the minor beneficiary rule exemption.

(Please note: All legislative references in this QWBA refer to the Income Tax Act 2004).

#### Background

Section HH 3A(1) states:

If a minor derives beneficiary income,—

- (a) a trustee of the trust from which the beneficiary income is derived must pay income tax on the beneficiary income as if the beneficiary income were trustee income:
- (b) despite section HH 3(1), the beneficiary income is excluded from being income of the minor.

Section HH 3B states:

Section HH 3A does not apply if the amount of beneficiary income derived by a minor in relation to a tax year is \$1,000 or less.

Section HH 3A(1) provides that if a minor derives beneficiary income from a trust the trustee must pay income tax on that beneficiary income as if it were trustee income. The beneficiary income is not income of the minor.

However, section HH 3B contains a de minimis exemption to this rule. It provides that where the amount of beneficiary income derived by a minor in relation to an income year is \$1,000 or less, the beneficiary income is taxed at the minor beneficiary's marginal tax rate and not at the trustee's tax rate.

The Commissioner is aware of the uncertainty over the application of section HH 3B. That is, it is unclear whether section HH 3B applies on a "per beneficiary" basis or a "per beneficiary per trust" basis.

The Commissioner has reviewed the statement regarding HH 3B in the *Tax Information Bulletin*, Vol 13, No 5 (May 2001) and past practices. The operational guidelines are clarified as follows.

#### Discussion - correct application of section HH 3B

The Commissioner considers that section HH 3B must be applied in the context of sections HH 3A and HH 3C which are formulated on a "per beneficiary per trust" basis. Accordingly, the reference to "beneficiary income" in section HH 3B can only mean the beneficiary income derived from a specific trust that would be treated as trustee income for that trust under section HH 3A.

The underlying purpose of section HH 3B also supports this interpretation. The purpose of section HH 3B is to provide an exemption to the general rule in section HH 3A. Therefore the exemption can only apply in respect of the beneficiary income derived from a particular trust to which section HH 3A applies.

Accordingly, section HH 3B should be interpreted as applying to each beneficiary for every trust from which they derive income. If a beneficiary receives beneficiary income from a number of trusts the \$1,000 exemption in section HH 3B will apply to the income that is received from each trust. That is, the aggregate exemption can exceed \$1,000.

Although there is no express limit on the number of trusts that can make distributions of \$1,000 or less to the same minor beneficiary and benefit from the section HH 3B exemption a settlor must have a legitimate purpose in establishing multiple trusts. The Commissioner may consider the application of the general anti-avoidance rules if people establish multiple trusts to obtain a greater than \$1,000 exemption.

## **Correction to TIB Vol 19, No 3 (April 2007)**

The following section references replace those published on pages 73 and 89, *Tax Information Bulletin*, Vol 19, No 3 (April 2007).

### **Taxation of business environmental expenditure**

Sections CX 43B, EK 6, EK 12, EK 16, EK 20 and Schedule 6B of the Income Tax Act 2004 and section DJ 10 of the Income Tax Act 1994.

### **Share-lending rules**

Sections LD 9, ME 5, NF 12, and the definition of “imputation credit” in the Income Tax Act 2004 and section 30B of the Tax Administration Act 1994.

## REGULAR FEATURES

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### DUE DATES REMINDER

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#### May 2007

**7 GST return and payment due**

**21 Employer deductions**

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**

#### June 2007

**20 Employer deductions**

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**

These dates are taken from Inland Revenue's *Smart business tax due date calendar 2007–2008*. This calendar reflects the due dates for small employers only—less than \$100,000 PAYE and SSCWT deductions per annum.



## 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 internet:** Visit [www.ird.govt.nz](http://www.ird.govt.nz)

On the homepage, click on “Public consultation” in the right-hand navigation bar. Here you will find links to drafts presently available for comment. You can send in your comments by the internet.

**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.

Name \_\_\_\_\_

Address \_\_\_\_\_

***Draft question we’ve been asked***

- QB0050: Trustees in the context of the Goods and Services Tax Act 1985: does a separate trustee capacity and personal capacity exist and do separate trustee capacities exist for trustees of multiple trusts?

***Comment deadline***

21 May 2007

***Draft question we’ve been asked***

- QB0054: Trophies and animal products derived from the tourist, hunting and safari industry that are to be mounted in NZ—zero-rating

***Comment deadline***

31 May 2007

***Draft general depreciation determination***

- DDG0116: Rental car seats

***Comment deadline***

31 May 2007

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

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