Tax Alert

A focus on topical tax issues

September 2016

More tax legislation served up to taxpayers

By Robyn Walker and Nigel Jemson

As part of the increasing buffet of tax legislation being dished up by the Government, in August a Tax Bill was released aimed at implementing the business tax simplification measures announced as part of this year's budget.

The Tax Bill also includes the following reforms.

- Amendments to the disclosure requirements for foreign trusts with New Zealand resident trustees. These amendments are the result of the *Government Inquiry into Foreign Trust Disclosure rules*. Refer to the separate article in this issue for further Deloitte analysis on the new foreign trust disclosure requirements.

- Automatic exchange of information: Legislation amendments to implement the G20/OECD standard for Automatic Exchange of Financial Account Information in Tax Matters in New Zealand (refer to the separate article on these measures later in this issue of tax alert).

In this issue:

Business tax simplification measures – the main course

From a policy standpoint, very little has changed compared to when the business tax measures were originally announced in April, aside from a few tweaks around the edges. There is a smorgasbord of changes, with the most significant changes relating to provisional tax and use of money interest.

- New options have been introduced to allow businesses to fall outside of the use of money interest regime when paying provisional tax. In particular:
  - Use of Money Interest ("UOMI") will be removed for the first two provisional tax instalments for taxpayers using the standard uplift method.
  - The safe harbour threshold will be extended to non-individuals and increased from $50,000 to $60,000 so that anyone with residual income tax of less than $60,000 will not be subject to UOMI.
- Small and large businesses may be able to choose to pay provisional tax based on their tax-adjusted income calculated by an Inland Revenue approved software package. This is intended to align tax payments with when income is earned and is called the Accounting Income Method (AIM method).

Other tax dishes on offer are:

- A shareholder-employee and the company can agree that the shareholder-employee's provisional tax payment obligations on their shareholder salary are transferred to the company.
- Contractors subject to the schedular payment rules can elect their own withholding rate without having to apply to Inland Revenue for a special rate (subject to certain minimum rates), and contractors not covered by the schedular payment rules can opt in to the rules with the consent of the payer.
- The schedular payment rules will be extended to contractors working for labour-hire firms.
- Inland Revenue will no longer impose a 1% monthly incremental late payment penalty on unpaid GST, income tax and Working for Families tax credits overpayment.
- The Commissioner will be allowed to disclose a taxpayer's information and their significant tax debt to approved credit reporting agencies, and Inland Revenue will be able to share information with the Registrar of Companies to enforce certain serious offences.
- The motor vehicle expenditure rules in subpart DE of the Income Tax Act 2007 ("ITA 2007") are to be extended to allow certain close companies to use these rules as an alternative to paying FBT on a motor vehicle benefits provided to shareholder-employees.
- The self-correction threshold for minor errors will be increased from $500 to $1,000.
- Taxpayers will be able to use a simplified method for the calculation of deductions for premises and vehicles that are used for both business and personal purposes.
- The threshold for calculating and returning FBT on an annual basis will be increased from $500,000 to $1 million of PAYE/ESCT.
- Taxpayers to be able to choose whether to apply the existing rule in section EA 4 of the ITA 2007 for the timing of the deduction for an amount of expenditure on employment income paid within 63 days after the end of the income year.

AIM Method

The AIM method will initially be available to businesses with gross income of under $5 million and will apply from the 2019 income year. Conceptually, this method allows businesses who are operating accounting software to use this software to pay provisional tax as they go – based off accounting profit with some tax adjustments calculated automatically by the accounting software.

One change from the original discussion document is that Inland Revenue are now opening up the AIM method to larger taxpayers. An amendment has been included in the Bill to taxpayers with income >$5 million to use the AIM method if they are using a software package that the Commissioner has approved for AIM.

The detail of how the AIM method will work in practice is yet to come. Most of the detail of how the method will work (particularly translation of accounting data into a tax payment calculation) will be issued in a determination by the Commissioner of Inland Revenue. This appears to be the best approach, given that many of the finer workings of this method are yet to be nutted out.

Deloitte comments

The business tax simplification measures are primarily targeted at small businesses, however larger businesses will benefit from the proposals. Businesses are likely to welcome these measures, particularly the changes to allow businesses to avoid the use of money interest rules, which have long been a bugbear for many businesses.

While many of these measures do achieve the aim of tax for business, we consider there is still a lot more room for the Government to further simplify the tax rules. Some examples of business tax simplification measures we'd like to see on the menu include:

- Introducing the ability for businesses to write-off low value residual asset balances in their tax fixed asset register (e.g. write-off balances under $100);
- Raising existing thresholds in the Act which have not changed since they were introduced (e.g. $10,000 threshold in section DB 62 for taxpayers to claim a deduction for legal fees without the need to review for capital items).

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For further analysis of the business tax proposals, please refer to this Deloitte Special Tax Alert that was issued when these proposals were first announced.

Supplementary order paper to the Bill – dessert or appetite spoiler?

Subsequent to the release of the Bill, the Government has introduced a supplementary order paper ("SOP") to the Bill – a dessert of sorts, albeit some are finding it is leaving a sour taste.

The SOP proposes an amendment that would provide the Government with a regulation-making power to change the application of a provision in the Tax Administration Act 1994 so that the application of the legislative provision is consistent with its policy intent. This regulation making power is limited to legislative provisions impacting the Business Transformation process and is intended to be used in situations where a prompt regulatory response is required to avoid the potential for delays to the transformation process.

The accompanying Regulatory Impact Statement notes that there are two main situations where a prompt regulatory response may be needed:

- When a process aligned with the current computer system is examined and found to be inconsistent with the current law because of the limitations of the current system. A regulatory response would be needed to provide a bridge between the current process and the correct process in the new computer system; and
- When the new computer system offers a more efficient or different process to that currently legislated. A prompt regulatory response could reduce the delay in getting the law to line up with the new process, so as to provide a smooth transition from the old law to the new law.

The exemption and regulation-making power would enable the delegated legislation to achieve the following:

- Amend, suspend or override a provision in the Tax Administration Act 1994;
- Define or amend a term in the Tax Administration Act 1994; and
- Exempt a person from a provision of the Tax Administration Act 1994.

Some safeguards have been included to limit the exemption and regulation-making power:

- Regulations must include a date on which they will be repealed, with a maximum of a 3 year sunset clause. Any further legislative amendments would need to be made via the parliamentary process prior to the regulation being repealed;

- Regulations can only be made where they are consistent with the current policy intent;
- Regulations can only be made when they are necessary or desirable for the orderly implementation of business transformation;
- Regulations must have been the subject of a consultative process. However, what constitutes a consultative process is left undefined.

The regulation-making power and any unexpired regulations made under this provision would expire on 31 December 2021 (as Inland Revenue envisage Stage 4 of Business Transformation to be complete by this date).

These proposals are bound to create concern about the powers being granted to Inland Revenue but this does not mean they are without merit. We agree it would be useful for Inland Revenue to have some regulatory flexibility, where tax legislation is not consistent with the underlying policy intent. This would prevent Inland Revenue's business transformation process being held up unnecessarily by delays in the parliamentary process. This is particularly important as we head into the 2017 election year which typically slows the pace at which legislation can progress.

We acknowledge that the regulation making power goes against the constitutional principle that taxes should not be levied without parliamentary authority. However, the safeguards put in place should help limit any potential abuse of the power. The Government does not have unlimited power to vary tax legislation as they wish as the regulation-making power is limited to situations relating to business transformation and where the legislation is inconsistent with the underlying policy intent.

However, we acknowledge that further consideration will need to be given to ensure the proposed safeguards are sufficient. In particular, the draft legislation does not adequately canvass the following issues:

- Where the policy intent is not clear or Inland Revenue and taxpayers disagree on what the underlying policy intent of a particular provision is.
- What is necessary for the 'orderly implementation of business transformation' is left undefined. Taxpayers and Inland Revenue could disagree on what this entails.
- While some of these issues can be ironed out via the envisaged consultation process in the draft legislation, it is not entirely clear what this consultation process would entail. We suggest that Inland Revenue create a defined consultation process so that there is sufficient public oversight over the regulation-making power. This could include a website where proposed regulations are posted, giving the public an opportunity to comment within a defined timeframe.

We also note that it would have also been preferable if these proposals were introduced at the same time as the Bill or alternatively, the consultation timeframe on the Bill extended. The Bill already has a truncated consultation process (with submissions due 9 September). Introducing reforms via supplementary order paper to a Bill which already has a short consultation timeframe runs the risk that there is insufficient time to iron out any flaws with the proposals.

While controversial, provided some of the flaws in the regulation-making power can be ironed out, these proposals are a tentative step in the right direction towards enabling a swifter fix to issues in tax legislation.

Concluding comments

Submissions on the Bill close on 9 September 2016 with a report back date of 11 February 2017. We expect the Government to move swiftly to enact the Bill, given that many of the business tax reforms will apply from 1 April 2017 and are intended to be a pre-election sweetener for business taxpayers.

For further information on the Bill's reforms, please contact your usual Deloitte advisor.

Stay tuned to Deloitte Tax@hand and Deloitte Tax Alerts for further developments.

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Foreign trust reform legislation introduced

By Emma Marr

New Zealand resident trustees of foreign trusts are likely to only have a few months to get up to speed with new trust rules as a result of a bill introduced to Parliament on 8 August 2016 (the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Bill). As foreshadowed in the Government's response to the Shewan Inquiry in July 2016, the majority of the recommendations made by the Shewan Inquiry (covered in more detail here) have been incorporated into the draft legislation. The bill submission timeframe is only 1 month as it appears the Government is in a hurry to get these measures enacted.

The key points to note are that extensive information will need to be provided to Inland Revenue when initially registering foreign trusts (and if any of that information subsequently changes), and every year following, by filing annual returns with Inland Revenue. Foreign trusts formed after the date of enactment of the bill will need to register with Inland Revenue within 30 days, while existing foreign trusts will have to register by 30 June 2017. Annual returns must be filed three months after balance date (or by 30 June if the trust has no balance date). Existing trusts will generally be required to provide their first annual return by 30 June 2018.

The disclosure rules are extensive enough that any foreign trusts currently using the New Zealand foreign trust regime for secrecy purposes because of the current limited disclosure rules are likely to find the new rules unpalatable. The rules may be a catalyst for such trusts finding a new jurisdiction in which to operate, in which case the new rules may arguably have achieved at least one of their objectives.

Registration and annual returns

On registration, the trustee must provide Inland Revenue with extensive information about the trust, including details of all settlements and a copy of the trust deed. The trustee must also provide specific identifying information (including names, addresses, email addresses and Taxpayer Identification Numbers) for any settlor, trustee, beneficiary or class of beneficiary, and for any person with one of a variety of powers, such as the power to dismiss a trustee, amend the trust deed, add or remove a beneficiary, or control a trustee in administering the trust.

The trustee must provide a signed declaration that the people with powers over the trust deed or the trustee have been informed of, and have agreed to provide the information necessary for compliance with, relevant tax and anti-money laundering legislation.

If any details provided on registration subsequently change, the trustee must advise Inland Revenue of this change within 30 days of the trustee becoming aware of the alteration.

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Every year, the trustee must provide an annual return disclosing financial statements, details of all settlements, distributions, and specific identifying details of all settlors and beneficiaries.

It is proposed to charge fees for registration of foreign trusts ($270) and for filing an annual return ($50).

Consequence for failure to comply

The consequence for a failure to comply is very straightforward: loss of the tax exemption for any income derived by the trustee. The tax exemption is only available if the trust is registered before the income is derived, and the trustee complies with all the record keeping and disclosure requirements in the tax legislation. The commentary states that if the failure to comply is unintentional and is immediately remedied the tax exemption will still be available, however it is not clear how the draft legislation achieves this outcome.

Grace period

New migrants who are not in the business of providing trustee services will have a two year grace period before they are subject to the new rules. This is a sensible measure, as it will give people who are, for example, a trustee of a family trust, time to re-organise their affairs after migrating to New Zealand and inadvertently finding they are subject to the New Zealand foreign trust rules.

Information sharing

Information collected by Inland Revenue as part of these disclosure rules will be shared with the Police and the Department of Internal Affairs.

The Government has acted impressively quickly in keeping to their commitment to adopting the recommendations of the Shewan Inquiry. Provided that the new rules are consistently and visibly enforced, the result should be an improvement in the perception of our foreign trust rules.

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CRS: Are you ready?

By Troy Andrews and Vinay Mahant

The next wave of compliance for Financial Institutions is getting closer with Inland Revenue having recently released its proposed legislation to implement CRS (Common Reporting Standard) in New Zealand. CRS aims to improve cross-border tax compliance and promote the global automatic exchange of information ("AEOI"). CRS builds on the US FATCA (Foreign Account Tax Compliance Act) that was enacted to combat offshore tax evasion by US persons. Though CRS is built on similar principles, it is not the same, being based on universal OECD principles and is not US centric.

CRS is intended to apply to Financial Institutions that would otherwise fall within the ambit of FATCA. There are essentially four types of Financial Institution (which is similar to FATCA):

- Depository institution;
- Custodial institution;
- Specified insurance company; and
- Investment entity.

Currently 101 jurisdictions, including New Zealand, have committed to exchange information under CRS. New Zealand has committed to complete its first exchange by 30 September 2018. We have summarised the key dates for reporting:

- New Zealand reporting Financial Institutions are expected to commence applying due diligence procedures from 1 July 2017.
- The first reporting period will be for the 9-month period to 31 March 2018. Going forward, the annual reporting period will be to 31 March each year (which is consistent with FATCA).
- Financial Institutions must submit their AEOI reporting to Inland Revenue by 30 June of the respective year.
- A 3-month grace period will be in effect for the first two annual reporting periods to allow Financial Institutions additional time to conduct due diligence procedures. However, any reportable information gathered during the grace period will need to be reported in the current year's AEOI report.
- A common IT information exchange system is currently being developed by the OECD for encrypting and transmitting data between jurisdictions. It is hoped that this system will be more user friendly than the current FATCA reporting mechanism.

A particular area of focus in implementing CRS is that the list of reportable jurisdictions committed to entering into agreements to promote the AEOI is expected to evolve over time. Inland Revenue intends to publish a list of participating jurisdictions periodically to help Financial Institutions identify reportable accounts. The evolving list of participating jurisdictions could result in increased compliance costs as ongoing monitoring and subsequent updates to due diligence and reporting may be required each time a new jurisdiction signs up for AEOI. To minimise compliance costs, a wider approach to due diligence and reporting that allows Financial Institutions to identify all non-resident account holders irrespective of whether the account is from a reportable jurisdiction is proposed and is expected to be mandatory.

Inland Revenue has proposed to filter the information reported to limit the exchange of information to relevant reportable jurisdictions with the option for Financial Institutions to filter information themselves if they wish to. There are privacy issues involved with this information which Inland Revenue is currently working through. Inland Revenue has also raised potentially using this information for other purposes such as reviewing non-resident withholding tax rates and compliance.

In our view, the wider approach is a practical response to the global nature of CRS due diligence and should enable Financial Institutions to take a global approach that is consistent with the rest of the participating jurisdictions and should reduce ongoing operational costs. CRS also provides Financial Institutions with certain options, such as choices around the currency used to determine account balance thresholds, to reduce compliance costs.

A particular focus for many New Zealand taxpayers has been applying the scope of FATCA to various New Zealand trusts. We understand that Inland Revenue intends to update its FATCA trust guidance notes to clarify any differences to CRS. They also intend on publishing general guidance as well as specific guidance on due diligence procedures, reporting requirements and the application of CRS to particular business structures (e.g. partnerships and collective investment vehicles). Inland Revenue has asked for any other areas Financial Institutions would like further guidance on.

To ensure CRS effectively achieves its objective of improving cross-border tax compliance, the OECD will conduct regular peer reviews and other forms of monitoring to ensure that jurisdictions correctly implement the standard and that global consistency is maintained. Such monitoring or audit activity has yet to take effect for FATCA although this is expected to change now that the best endeavours period has come to an end. Financial Institutions should expect CRS compliance to be more strictly monitored (although there is a similar introductory period of 2 years to help with the transition). In our view, the peer review will be a meaningful part of ensuring jurisdictions implement CRS correctly.

It is proposed that the penalties for non-compliance will be civil in nature other than penalties for knowledge based offences. To promote compliance, it is proposed that penalties will be extended beyond reporting Financial Institutions and include account holders and controlling persons. For trusts this could include the settlor, trustees and beneficiaries. Such penalties are not currently in place for FATCA but this extension is expected to also apply for FATCA. This is potentially very wide ranging and will require a massive education of a wide population.

For example, a graduate who leaves New Zealand to go on an OE and subsequently becomes a non-resident could potentially be caught if they do not disclose their change in circumstance to each Financial Institution they have an account with. The proposed penalty for non-compliance by account holders and controlling persons is $1,000. This is a new development in a reporting framework and in our view will be a large challenge to impose fairly. We expect this area to be a discussion point before legislation is finalised.

As CRS compliance is expected to be monitored strictly, Financial Institutions should seek to consider their CRS status early and build a robust system to integrate CRS governance into their operations to avoid any penalties for non-compliance.

Inland Revenue is also calling for submissions on what Financial Institutions might qualify as being exempt. However, CRS is very strict on the criteria for exemptions and a FATCA exemption will not automatically mean there will be a CRS exemption. To put this in perspective, the average number of entity exemptions that jurisdictions have obtained is "two" as the driver is a universal system. The message is simple; you can't ignore CRS as it has the potential to bite you.

We expect that Financial Institutions should generally be able to leverage off investments they have already made for FATCA to make CRS an easier transition. However, there are differences and it won't be as simple as extending FATCA to all jurisdictions. An example of a difference is a CRS rule that deems an investment entity in a non-participating jurisdiction to be a passive Non-Financial Entity and potentially a reportable account. Given its global focus and the fact that its implementation is likely to be closely monitored; Financial Institutions should be proactively seeking to establish their systems under CRS sooner rather than later.

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Commissioner of Inland Revenue v Vector Limited

By Emma Marr and Brad Bowman

On 12 August 2016, the Court of Appeal released its judgment in Commissioner of Inland Revenue v Vector Limited, confirming that income earned by Vector Limited (Vector) in exchange for granting Transpower rights to a tunnel and overhead corridor was not taxable. The appeal follows Vector's success in the High Court, which was reported in our October 2014 Tax Alert.

Although the law has since been amended to ensure that any such receipt would be taxable income if it were received now, the Court of Appeal made some useful observations regarding the hurdles Parliament and the Commissioner of Inland Revenue must jump to successfully categorise receipts as taxable revenue rather than non-taxable capital receipts.

The Commissioner of Inland Revenue argued that the specific provision in question was intended to tax what had previously been seen as capital receipts, but the Court of Appeal agreed with the High Court that there was simply not enough intention evident in the legislation to confirm that this was the case. Without clear evidence that Parliament intended to tax capital receipts, the Court was not prepared to conclude that the legislation had that effect.

Background facts

Vector owns two key assets in the Auckland electricity distribution system: an underground tunnel that runs from the central city to Penrose, and the North Shore Transmission Corridor ("the Assets"). In June 2010, Vector entered into an agreement that allowed Transpower to use the Assets, by granting various easements and licences, and transferring certain rights to Transpower to enable Transpower to distribute electricity to the national grid. In return Vector received a payment of $53 million.

The primary issue was whether the receipt of that payment by Vector was "other revenues" under section CC 1(2)(g) of the Income Tax Act 2007 ("ITA 2007") or a non-assessable capital payment. A secondary issue was whether the amount was consideration for Vector agreeing to permanently give up part of its income producing asset (and non-taxable), or if it was simply a payment for the use of Vector's land (which would be taxable) – in other words, it was really a payment of rent in advance.

This case, read together with the High Court decision, supports the argument that capital gains should only be taxed where the legislation clearly prescribes this outcome.

The arguments and the judgment

The Commissioner's primary argument on the first issue was that section CC 1 codified the law as part of a coherent, overarching scheme to tax income from specified uses of land, short of a disposal. Further, "other revenues" in section CC 1(2)(g) included sums of a capital nature.

The Court of Appeal did not agree, finding that the legislative history showed no such coherent, overarching scheme for the taxation of receipts from land use. Section CC 1 taxes the specific amounts that are listed in the section, and nothing more. The fact that these amounts may be received by a person from specified uses of land which fall short of a disposal does not mean that every amount of income derived from the use of land that falls short of a disposal is taxable.

The meaning of "other revenues" in section CC 1 is critical, and the Court of Appeal held that "other revenues" must, in this context, refer only to revenue (not capital) receipts. To tax capital receipts, a specific intention to do so must be evident. No such intention was evident.

In fact, given later legislative developments, it seemed even clearer that section CC 1 did not include capital receipts. The Court pointed out that the legislation was amended after Vector and Transpower entered into the agreement by adding section CC 1B of the ITA 2007, which specifically provides that payments received in consideration for the grant, renewal, extension or transfer of a lease or licence are assessable income. As the Court noted, if this income were already assessable under section CC 1(2)(g), the new section CC 1B would not be necessary. Although the Court noted that legislative developments that take place after a disputed transaction cannot always cast light on how the law should be interpreted at the time of the transaction, this was a proper case to do so.

The Commissioner's second argument, that the payment made by Transpower was actually rent disguised as a lump sum payment, was also dismissed. The agreement entered into between the parties permanently impaired Vector's ability to use the Assets. This amounted to a permanent disposition of property interests, which is clearly capital in nature.

The Court of Appeal accordingly dismissed the Commissioner's appeal concluding that the payment was capital in nature and that "other revenues" in section CC 1(2)(g) did not include capital receipts.

Concluding remarks

A strong emphasis of the Court of Appeal judgment was the need to focus on the detailed wording of a taxing provision, read in context and in its most natural sense. This will give the best indication of the purpose of the provision. In their most natural sense, and in the context of the "traditional capital/revenue distinction," the words "other revenues" were meant to capture revenue receipts. This case, read together with the High Court decision, supports the argument that capital gains should only be taxed where the legislation clearly prescribes this outcome.

If you have any questions in relation to this article, please contact your usual Deloitte advisor.

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A snapshot of recent developments

Trustpower case impact statement released

On 18 August 2016, Inland Revenue released a case impact statement on the *Trustpower Limited v Commissioner of Inland Revenue* case concerning the deductibility of expenditure incurred in obtaining resource consents for possible future generation projects (refer our feature article last month). In the case impact statement, Inland Revenue states that as *Trustpower* is now the current law, it must be applied by taxpayers and the Commissioner from the date of the judgment. Inland Revenue has stated that it will not be actively reviewing assessments prior to the decision in *Trustpower* where taxpayers have followed the approach taken in the Commissioner's Interpretation Statement IS 08/02: Deductibility of Feasibility Expenditure. In light of the judgment, this statement is currently under review and should not be relied upon.

Corporate tax governance guidance

Inland Revenue has publically endorsed recently released OECD guidance which seeks to assist businesses in designing and implementing effective tax governance. Inland Revenue states that it considers this guidance applies in New Zealand to significant enterprises (in particular those that currently file a basic compliance package) and high wealth individuals who have complex business interests. At a minimum, the following key questions should be routinely addressed by boards and high wealth individuals:

- Is there an up-to-date documented strategy?
- Have effective systems, procedures and resources been put in place to manage key tax risks and is there a statement in the annual report to this effect?
- Is annual reporting sufficiently transparent to enable all stakeholders to analyse and effectively interpret information provided on taxes paid?

Reminder to document the terms of intragroup loans

Inland Revenue has issued a reminder about documentation required in relation to cross border associated party lending arrangements because too often there is minimal or non-existent documentation supporting such loans. Specifically the guidance sets out 10 points of detail that should be addressed in the documentation such as the purpose or intention of funding, parties, amount and currency, interest rate, payment dates, terms and repayment dates, fees, security, guarantees and amendments to loans over the life. Inland Revenue further advise that it keeps a close eye on cross border financing arrangements, particularly loans in excess of $10m principal and guarantee fees.

SOP to Business Tax Bill released

On 16 August 2016, Supplementary Order Paper No. 190 ("the SOP") was released. The SOP proposes an amendment to the Taxation (Business Tax, Exchange of Information, and Remedial Matters) Bill that would provide the Government with a regulation-making power to change the application of a provision in the Tax Administration Act 1994 so that the application of the legislative provision is consistent with its policy intent. This regulation making power is limited to legislative provisions impacting the Business Transformation process and is intended to be used in situations where a prompt regulatory response is required to avoid the potential for delays to the transformation process. See our article in this issue for more information.

Inland Revenue releases two draft items for consultation

On 11 August 2016, Inland Revenue released a draft interpretation statement on when income from professional services is derived. For tax purposes, there are two main methods for determining when an amount of income has been derived: cash basis or accrual basis. While there is no general rule of law requiring particular professions to account for income using one method or the other, Inland Revenue prescribes a number of factors (based on case law) that should be considered when determining which method is appropriate for a particular business or profession. Inland Revenue is welcoming comments, which are due 22 September 2016.

Inland Revenue also released a draft Questions We've Been Asked on the date of acquisition of land. This draft QWBA has previously been consulted on, however is open for re-consultation due to remedial changes made to section CB 15B of the ITA 2007 seeking to clarify the section's intention.

QB 16/06: Land acquired with purpose or intention of disposal

On 29 July 2016, Inland Revenue finalised a Question We've Been Asked QB 16/06: Land acquired with the purpose or intention of disposal. The QWBA considers the tax treatment of proceeds from the sale of land which was acquired with the purpose or intention of disposal. Where there is an intention or purpose of disposal at the time of acquisition, section CB 6 of ITA 2007 should apply and proceeds should be included as income tax for purposes. The QWBA also includes a discussion of the exclusions from section CB 6, the interaction of section CB 6 with the new bright-line rules, a discussion concerning determining intention or purpose and several useful examples.

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