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Tax Alert

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June tax bill – a mixed bag

By Emma Marr

The Government hasn't just been busy changing the tax rules in response to COVID-19, they've also been hard at work on a raft of other tax reforms. Legislation to implement a number of the proposals was introduced to the house in June 2020, in the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill. This omnibus bill includes changes to income tax, tax administration, the GST regime, social policy, and KiwiSaver. It also sets the rates of tax for the 2021 tax year (unchanged from previous years). Although no date has been set for submissions to the Finance and Expenditure Select Committee on the Bill, the date for the Committee to report back to Parliament has been set at 24 December 2020.

We have a packed edition of Tax Alert this month, covering these changes in more detail. Some will be welcomed by taxpayers, some not so much.

Taxpayers will be happy to see the long-running process of changes to the rules for deducting feasibility expenditure entering the final stage of becoming law. This is an important change that will affect many taxpayers who have seen expenditure disappear down the proverbial black hole, and will be relieved to finally be able to deduct it in future.

Somewhat less welcome will be the rules around purchase price allocations. As our article outlines, there are a number of issues with both the concept of a legislative response to the problem, and the details of that legislative response. We look forward to some meaningful engagement at the Select Committee stage.

The rules around land sales have been amended again, to ensure the main home and business premises exemptions don't apply if a group of related taxpayers have a regular pattern of habitually buying and selling land.

We have a packed edition of Tax Alert this month, covering these changes in more detail. Some will be welcomed by taxpayers, some not so much.

The article gives examples of how this could apply and is essential reading if you or your close connections may be affected.

Changes are on the way for the income tax treatment of leases subject to NZ IFRS 16, and our crack team of tax accountants have broken this down into some very easy to understand guidelines.

The government is making more tweaks to the research and development tax credit rules. Our R&D experts cover this and some key considerations and FAQs that will be helpful to any organisation working through how to get the most out of the R&D rules.

Other changes

GST changes

Among several GST changes is a proposal that will result in outbound mobile roaming services used by a person with a New Zealand mobile device while they are outside New Zealand becoming subject to GST at the standard rate of 15% with effect from 1 April 2021.

The other key GST proposal deals with a situation where a supplier may have issued an incorrect invoice charging 15% GST on a supply of goods or services that was actually zero-rated (such as an export) or an exempt supply (such as a financial services). The proposed amendment is to allow the supplier to issue a credit note to correct the mistake.

Changes are also made to the zero-rating of commercial land leases to ensure the rules work as intended.

Thin capitalisation and restricted transfer pricing

Changes are proposed to tighten up the restricted transfer pricing rule. If you have been relying on the terms of your third party debt to set the terms and conditions and to price related-party debt, these changes may be relevant, so get in touch with your Deloitte advisor.

The Government also proposes amendments to the thin capitalisation rules to:

- Stop the rules applying to certain New Zealand resident trusts if they only fall under the rules because the settlor has an interest in a non-resident company or trust; and
- Introduce a separate formula for calculating apportionment of interest by an excess debt entity controlled by a non-resident owning body or trustee to seek to ensure that interest paid to third parties remains deductible if the gearing exceeds 60%. Accordingly, the rules seek to remove the assumption built into the current rules that the same interest rate applies to both related-party debt and unrelated-party debt.

Custodial withholding obligations

A clarification has been made to the requirement for custodians to withhold tax when paying investment income to the end investor. Changes to the framework for withholding tax on investment income that applied from 1 April 2020, referred to the requirement for custodians to withhold RWT, but inadvertently didn't refer to NRWT. The legislation will now refer simply to "the amount of tax". The amendment will apply from 1 April 2020.

Other policy and remedial items in this bill include:

- Measures to enable the direct transfer of New Zealanders' Australian unclaimed superannuation money from the Australian Tax Office to a KiwiSaver Scheme.
- Proposed amendments providing for taxable income arising from the culling of certain qualifying Mycoplasma bovis affected livestock to be spread over six income years.
- Various remedial items clarifying aspects of the portfolio investment entity (PIE) tax regime, use of pre-consolidation imputation credits, and the trust rules.
- Clarification that a cash dividend will be allocated to the income year in which the person receives it (i.e., not on an accruals basis). This will simplify filing and reduce compliance costs.
- A subsequent supplementary order paper (SOP) includes changes to the administration of unclaimed money and increasing the individual income tax write-off threshold from $50 to $200.

To see all the content for the June Bill or for more information, refer to the commentary on the bill and the SOP and the June Bill. If you need help navigating the impact of the proposals, contact your usual Deloitte advisor.

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Welcome relief for taxpayers: The next chapter in the feasibility journey

By Patrick McCalman, Vyshi Hariharan and Mahi Kumar

The Government is moving ahead with welcome reform to the deductibility of feasibility expenditure. On 4 June 2020, the Government introduced the Taxation (Annual Rates for 2020-21, Feasibility Expenditure, and Remedial Matters) Bill (the **June Bill**). The June Bill introduces measures which allow deductions for certain expenditure related to unsuccessful and abandoned assets or business models, as well as, immediate deductions for certain de minimis expenditure as a compliance cost saving measure.

Discussions regarding deductions for feasibility expenditure have spanned a number of years, with initial consultation beginning in 2004 and the original interpretation statement (IS 08/02) being released in 2008. Since then, following the Trustpower judgments of the courts, Inland Revenue released IS 17/01: Income tax – deductibility of feasibility expenditure in February of 2017 (which replaced IS 08/02).

IS 17/01 provides guidance in relation to feasibility expenditure incurred as an ordinary incident of business and which is recurrent in nature. Broadly, it states that a deduction is allowed for such feasibility expenditure, provided the expenditure was not directed towards a specific capital project and / or was so preliminary as not materially advancing or making tangible progress towards a specific capital project (refer our previous Alert article). The current proposals are intended to sit alongside guidance in this interpretation statement.

Since the Trustpower case and the release of IS 17/01, stakeholders have been seeking a revision of the tax rules. An example of where review has been sought is in relation to expenditure on unsuccessful or abandoned projects or investments, where taxpayers would have received depreciation deductions had the project gone ahead, but simply did not because the project was abandoned before it met the definition of depreciable property. Officials undertook consultation and developed some options for reform, outlined in the discussion document Black hole and feasibility expenditure released in May of 2017.

Key features of the proposed measures

The proposed changes in the June Bill allow taxpayers a deduction for expenditure incurred in the 2020-21 and later income years in completing, creating or acquiring property that would be depreciable property (including depreciable intangible property) or revenue account property either if:

1. Progress on the asset is abandoned such that the property is not completed, created, or acquired. In this case, deductions meeting the required conditions will be spread in equal proportions over a five-year period, starting from the income year in which progress on the property is abandoned.

   Where abandoned property is later completed, the deductions allowed under (1) above would be 'clawed back' by treating the amount previously deducted as income in the year the property is completed, created or acquired.

2. The total expenditure is NZD 10,000 or less for the income year. In this case, an immediate deduction is allowed.

While the proposed changes override the capital limitation, taxpayers would still be required to satisfy the general permission and the other general limitations. These measures would not apply where a deduction was allowed for the expenditure under any other provision of the Income Tax Act 2007.

Deloitte comment

The Government acknowledges that the status quo on the treatment of feasibility expenditure is inefficient and is acting as a barrier to businesses committing to expenditure on developing assets when uncertainty exists as to whether that asset would be completed.

Helpfully for taxpayers, the proposed measures widen the net of expenditure that would be deductible. Therefore, these measures are most certainly a step in the right direction. There are however some areas of the proposals that should be considered further, and if addressed by Officials, could provide relief and clarity to taxpayers. We discuss these below.

1. The requirement for the general permission to be met

According to the Commentary on the June Bill, the changes are being implemented to support the Government's economic strategy. They are intended to ensure tax is not a barrier for businesses seeking to invest in new projects or assets (unless there is an explicit denial of deductions – for example, where the taxpayer is not expecting to incur an economic loss on the asset, such as land).

Contrary to this sentiment however is the requirement for taxpayers to first meet the general permission to be allowed a deduction under the proposed measures – i.e. for expenditure to be deductible under these measures there must be a sufficient relationship or nexus between the expenditure and the taxpayer's business, or income-earning activity. Those familiar with the Trustpower judgements and IS 17/01 will recall that this principle means that if the expenditure is incurred as preliminary or preparatory expenditure before the commencement of a business or an income earning activity, there will not be sufficient nexus and the expenditure would not meet the general permission.

Given the Government's intended policy underlying the proposals, and in light of the current environment where businesses are 'pivoting' in new directions to respond to the impact and uncertainty surrounding COVID-19, the requirement to meet the general permission may restrict the ability of these measures to encourage and support the Government's economic strategy. We would welcome the Government relaxing this requirement.

2. Application date for expenditure incurred

The proposed changes are drafted to apply to expenditure incurred in the 2021 income year and later years. Therefore, expenditure incurred prior to the 2021 income year would not be deductible under these measures, even if the project or asset itself is abandoned in the 2021 income year. As noted above, given the current environment and uncertainty surrounding COVID-19, and with taxpayers 'pivoting' in new directions to survive, expenditure relating to many projects being abandoned at the moment in pursuit of other opportunities would have been incurred prior to the 2021 income year, and would not be deductible under these measures.

3. Determining the asset – what about abandoned components?

Where expenditure incurred relates to a component of an item of depreciable property, and the component itself is abandoned, but the item of depreciable property is completed (with an alternative component), it is unclear whether a deduction would be allowed for expenditure relating to the abandoned component under these measures or whether expenditure relating to the abandoned component should be capitalised to the cost of the depreciable property and depreciated. This uncertainty in treatment can be dealt with by issuing guidance on this matter or further clarifying the legislation.

4. Apportionment of expenditure

The proposed changes are not intended to apply to expenditure relating to a project or asset which is not expected to decline in value (e.g. land). Where taxpayers incur expenditure on a project that would have, if completed, resulted in depreciable property or revenue account property, as well as an asset that was not expected to decline in value, it is unclear whether a taxpayer can apportion the expenditure and claim a deduction under these measures for expenditure relating to depreciable property or revenue account property. This uncertainty in treatment can be dealt with by issuing guidance on this matter or further clarifying the legislation.

Next steps

A submission date has not yet been set for the June Bill. However, we expect that submissions would close before Parliament rises for the election in August 2020.
It will be interesting to see what changes (if any) are made as a result of submissions. Please contact your usual Deloitte advisor if you have any questions or would like assistance with making a submission.

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Purchase price allocation: A square peg for a round hole

By Matthew Scoltock and James Hickey

Legislation to enact the Government's much-anticipated purchase price allocation ("PPA") reform has been introduced. The Taxation (Annual Rates for 2020-21, Feasibility Expenditure, and Remedial Matters) Bill ("June Bill") was introduced to the House in early June 2020. As discussed in our February 2020 Tax Alert, Officials published an issues paper in late 2019, outlining a number of PPA-related policy concerns (in particular, the need for vendors and purchasers to consistently allocate purchase prices for income tax purposes, and for purchase price allocations to reflect "market value"). The Officials' issues paper also proposed what was, at that time, their proposed "fix."

In large part, that "fix" has made its way into the draft legislation, providing a strict framework for the way in which a vendor and purchaser may allocate the "global" purchase price for property that is treated differently for income tax purposes (e.g., the sale and purchase of a combination of non-depreciable property, depreciable property and revenue account property), known as a "mixed supply". The sale and purchase of commercial, industrial or residential real estate (comprising land, building and fit-out), or the sale and purchase of a business (or part of a business), will ordinarily comprise a mixed supply.

Several sections of the Income Tax Act 2007 explicitly require purchase prices to be allocated to "taxable property" based on "market value." These are intended to ensure that purchase prices for mixed supplies are allocated consistently by vendors and purchasers, and at "market value." While there is some debate as to whether or not the requirement to do so for every mixed supply currently has force in law, the Government seemingly believes that the issue is "grey" enough to warrant its own statutory regime. The Government is of the view that there is too much room for a vendor and purchaser to "game the system" by separately allocating purchase price to create either an excessive tax-free capital gain or a deductible loss on sale, thus eroding the tax base and resulting in a loss of Government revenue.

Key features

The proposed amendments will, if enacted, apply to sale and purchase agreements for mixed supplies entered into on or after 1 April 2021, and can be summarised as follows:

- If the vendor and purchaser agree a PPA (say, in the sale and purchase agreement, as is best practice), they must follow it for purposes of their income tax returns. The vendor and purchaser must have agreed the PPA by the earlier of the day on which the vendor or the purchaser files its income tax return for the income year in which the mixed supply takes place.
- As a backstop, if the vendor and purchaser do not agree a PPA, the vendor has the first right to decide the PPA, and must notify both the Commissioner and the purchaser of its PPA within two months of the "change in ownership" of the property. However, if the vendor does allocate the purchase price, the price "floor" is the tax carrying value of the property.
- If the vendor does not allocate the purchase price within the two-month timeframe, the right to decide the PPA "flips" to the purchaser.
- If the vendor and purchaser do not, in turn, decide a PPA, the vendor will be treated as disposing of the property for

"an amount that reflects its respective market value…," and the purchaser will be treated as acquiring the property for nil consideration (such that it has no deductible or depreciable "base" for income tax purposes).

- Under a de minimis rule, neither the vendor nor the purchaser is required to decide the PPA if (1) the "global" purchase price is less than $1M, or (2) the total purchase price allocated by the purchaser to "taxable property" is less than $100,000.
- The Commissioner has an over-riding power to allocate the purchase price on behalf of the vendor and purchaser based on "respective market value," subject to a de minimis for "low-value depreciable property."
- The Commentary on the June Bill states that "[i]t is not intended that parties have to allocate an amount to every individual item. It will be sufficient for the allocation to be made at the level of asset categories subject to particular income or deduction rules – for example, depreciable property, buildings, revenue account property, financial arrangements, land, and so on." However, that administratively critical principle has not been captured in the drafting of the proposed amendments.

Consultation with Officials

Disappointingly, many of the criticisms/issues that were raised with Officials have not been reflected in the proposed amendments.

Some have been commented on by Officials in the Regulatory Impact Assessments ("RIA") to the June Bill. As noted in the RIA, in deciding how best to respond to their PPA-related policy concerns, Officials considered (1) the status quo (i.e., doing nothing), (2) a vendor-first "party allocation" (for which Officials have opted), (3) a "Commissioner allocation," and (4) an operational approach.

While an operational approach has been overwhelmingly favoured by industry (on the basis that – other than the status quo – it is the most commercial, and the least likely to impact the vendor's and purchaser's relative bargaining strength), Officials primarily considered either a vendor-first "party allocation" or a "Commissioner allocation." An operational approach was rejected by Officials as, in their view, the Commissioner had no "legal basis" to require consistency of PPA between the vendor and purchaser. As noted in our February 2020 Tax Alert, throughout consultation there has been a visibly strong commitment from Officials to pursue a legislative course of action, rather than publish, for example, a Revenue Alert or operational statement, or simply require vendors and purchasers to notify the Commissioner of their purchase price allocations where agreements cannot been reached. In our view, such an operational approach is likely to go a long way to "correcting" the behaviour with which Officials are troubled. And, if there is concern that there is no "legal basis" for the Commissioner to require consistency as to PPA, why not simply correct that?

Comment

As set out in our February 2020 Tax Alert, giving the vendor the first right to allocate the purchase price will, almost certainly, create an imbalance in the vendor's and purchaser's relative bargaining strength that might otherwise not exist. This was, we understand, a near-universal criticism/issue raised by industry throughout consultation with Officials. Unfortunately, the proposed amendments do nothing to address it. Rather, as is clear from the RIA, Officials continue to consider that "[i]f the vendor is not prepared to agree the allocation, the purchaser may either refuse to go ahead with the transaction, or lower its price." That view is, of course, detached from commercial reality – particularly in the context of competitive M&A, where it is highly unlikely that a bidder can stay competitive and, at the same time, negotiate a lower purchase price.

Similarly, in the context of a competitive M&A deal, it is clear that a New Zealand bidder may be at an immediate disadvantage due to the fact that most intangible property is unable to be amortized/depreciated for income tax purposes. By contrast, in the United States (for instance), goodwill and "going concern value" are generally amortisable over 15 years on a straight-line basis. A foreign bidder will often be indifferent as to PPA if the property is being "taken" outside the New Zealand tax net, and is therefore likely to have a competitive advantage over a New Zealand bidder. That is, clearly, not a great policy outcome in a post-COVID-19 environment in which we are trying to support New Zealand business.

Perhaps a more fundamental question is whether or not a foreign purchaser, with no physical presence in New Zealand, that is "taking" property outside the New Zealand tax net, ought to be subject to a consistency requirement at all. Allocation of the purchase price may be meaningless to the foreign purchaser. And yet, as the proposed amendments are drafted, if the vendor does not (or is unable to) exercise its first right to allocate the purchase price, the decision will "flip" to the foreign purchaser.

In addition, the two-month timeframe for a vendor to decide the PPA and notify the Commissioner and the purchaser is far shorter than the theoretically open-ended timeframe given to a purchaser (if a PPA is not agreed by the vendor and purchaser, and the vendor does not exercise its first right to allocate). While that timeframe may, at first, seem reasonable (given the vendor will have held that power from "day dot"), many mixed supplies are not vanilla and actually have numerous complexities and "moving parts" (which may be caused by the parties themselves, or even by third parties). For non-vanilla mixed supplies, a two-month timeframe may not work practically. For example, if a vendor and purchaser both have a 31 March balance date, and a mixed supply completes on 1 April 2021 without agreement as to PPA, the vendor will have until 1 June 2021 to decide the PPA and notify the Commissioner and the purchaser. Clearly, that does not give the vendor much time to evaluate the property's "respective market value", particularly if market conditions have shifted materially between negotiation and completion. More significantly, however, if the vendor does not exercise its first right by that date, the purchaser will possibly have until 31 March 2023 – being the filing date for the vendor's and purchaser's income tax returns – to decide the PPA and notify the Commissioner and the vendor.

Clearly, a 'one-size-fits-all' solution is unlikely to work in practice, and may even distort the commercial dynamic of a number of mixed supplies (particularly in the context of competitive or cross-border M&A)

The vendor (a New Zealand business) will therefore be left at the mercy of the (possibly non-resident) purchaser.

Last, while Government may believe that vendors and purchasers need to be motivated to comply with the proposed amendments, deeming purchasers to acquire property for nil consideration while treating vendors as disposing of the same property for its "respective market value" is asymmetrical and penal. In addition, while making the tax carrying value of the property the price "floor" (if the PPA is decided by the vendor under section GC 21) is clearly an important caveat, it does not take into account the fact that the "global" purchase price might be less than the tax carrying value of the property.

Conclusion

Clearly, a "one-size-fits-all" solution is unlikely to work in practice, and may even distort the commercial dynamic of a number of mixed supplies (particularly in the context of competitive or cross-border M&A). Given the complexity and commercial impact that the proposed amendments are likely to have, we remain firmly of the view that an operational approach is the better "fix."

However, if enacted as currently drafted, we expect the proposed amendments to result in more vendors and purchasers agreeing purchase price allocations (or mechanisms/methods for allocating the purchase price ahead of completion). As we have said in the past, the most important takeaway will be for vendors and purchasers to make every effort to agree purchase price allocations as early as possible in the course of mixed supplies, and ensure that they are applied consistently for income tax purposes. It will be critical that vendors and purchasers engage their New Zealand tax advisors as early as possible to determine the income tax consequences of purchase price allocations, and to ensure that they are not adversely impacted in unforeseen ways.

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Land sales changes – are you in a regular pattern?

By Hiran Patel and Blake Hawes

In response to the regular cries that 'property speculators don't pay any tax', and with the abandonment of any capital gains tax, when the Government's tax policy work programme was announced in 2019, one of the high priority workstreams included was a review of the land sale rules. In particular, the work programme included an item to improve the integrity of the rules for "habitual renovators". What followed in September 2019 was a consultation document entitled "Habitual buying and selling of land" (refer to our October 2019 Tax Alert article here). Following consultation, legislative amendments to address the issue of habitual renovators was included within the Taxation (Annual Rates for 2020-21, Feasibility Expenditure, and Remedial Matters) Bill ("the June Bill") tabled in parliament on 4 June.

What is the issue?

Broadly speaking, where a taxpayer buys and sells land, and the proceeds from that transaction are subject to income tax, there may be an exclusion from the proceeds being taxable if the land or property is their "main home" or "business premises". However, this exclusion won't apply when a taxpayer engages in a "regular pattern" of acquiring and disposing of main homes or business premises (this is referred to as the "regular pattern restriction").

The perceived issue with the regular pattern restriction is that it generally only applies to a single taxpayer. Therefore, a group of related taxpayers could potentially alternate the ownership of successive pieces of land and no one individual taxpayer could be said to have a "regular pattern" of acquiring and disposing land of that type (as each taxpayer within the group wouldn't have created a pattern, even though there might be one when you look at the substance of what is occurring).

What is the Government doing to fix this?

To stop any mischief from groups of taxpayers structuring their ownership to circumvent the regular pattern restriction, the legislative reform included in the June Bill will mean that the actions of a group acting together will also be considered when assessing the "regular pattern" of a taxpayer.

For example, if person A and person B live together and person A buys and then subsequently sells four houses all within four years, person A will likely have a regular pattern of acquiring and disposing main homes, and the main home exemption would not apply. However, if person A bought the first house, person B bought the second house, person A's trust bought the third house and person B's trust bought the fourth house, a "regular pattern" would not exist because all four taxpayers have only acquired and disposed of one property each. Under the new rules, as person A and Person B (as individuals and in their capacity as trustee of their trusts) are a group of persons who have occupied all four properties, then the sale of all four properties will be considered when determining whether a "regular pattern" exists. In this case, it is very likely that the main home exemption will not be available.

The new rule will stop any mischief from groups of taxpayers structuring their ownership to circumvent the regular pattern restriction by assessing the actions of a group acting together.

If I'm part of a small business regularly upgrading premises or part of a large family purchasing and selling land should I be worried?

In short, no. The changes to the legislation may look worrying due to the grouping of transactions by multiple taxpayers, however the new rules include a secondary amendment that will only deem the proceeds from the disposal of land as taxable where a "regular pattern" exists **and** the land was acquired with the purpose or intention of disposal.

For example, if StartUp Company Ltd was growing much faster than expected, and in the last six years acquired, moved into and then sold five different business premises because they were growing so fast and constantly needed more room, a regular pattern of acquiring and disposing business premises may arise and the disposal of each premises may be subject to income tax. The requirement to have a purpose or intention of disposal will ensure that StartUp Company Ltd will only be subject to income tax on the disposal of business premises when this purpose or intention exists. Therefore, as the growth of StartUp Company Ltd was so rapid, and each new premises was acquired only for the intention to continue to operate their business from, the proceeds derived from the disposal of any business premises of StartUp Company Limited should not be taxable when relying on the business premises exemption.

When does this apply from?

The updated regular pattern restriction will only apply to land acquired after the enactment of the bill (which is likely to be early 2021) however land purchased before the enactment date will still be eligible to be considered as part of any "regular pattern" of a taxpayer, or group of taxpayers acting together.

If you would like to discuss the implications of these changes and how they might impact you, please contact your usual Deloitte advisor.

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Optional changes are on the way for the income tax treatment of leases subject to NZ IFRS 16

By Iain Bradley and Belinda Spreeuwenberg

The long awaited changes to the income tax treatment of leases subject to NZ IFRS 16 (Leases) are one step closer. Following an announcement in December 2019, draft legislation introducing a rule referred to as "applying NZ IFRS 16 for tax" is now before parliament as part of the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill ("the June Bill").

NZ IFRS 16 requires lessees to include most of their leases on their balance sheet, by recognising a right of use asset and a lease liability. This changes the timing of the accounting expenditure which now comprises depreciation of the right of use asset and a finance expense (compared to expenditure relating to operating lease payments under the previous accounting standard). The proposed legislation ("applying NZ IFRS 16 for tax") allows IFRS taxpayers to choose to more closely follow the accounting treatment of certain personal property leases but it does come with complexity. This new rule will only apply to the lessee of the lease.

What leases are included?

All new and existing leases where NZ IFRS 16 applies qualify, with the exception of the following leases:

- A lease of real property
- A lease from an associated party
- A lease where the asset is subleased

If a taxpayer chooses to apply NZ IFRS 16 for tax they would be required to apply this to all leases that qualify. This includes leases that qualify at a later date (for example, a sublease is cancelled or a lessee and lessor are no longer associated). Likewise, if a lease no longer qualified, it would fall outside of this proposed rule and the existing income tax treatment would be applied. Wash-up adjustments may be required where leases of personal property transition out of or into the ambit of the new rule.

When can a taxpayer choose to apply NZ IFRS 16 for tax?

The proposed rule would apply to income years beginning on or after 1 January 2019 (to align with the application date of NZ IFRS 16 although earlier adoption of NZ IFRS 16 was permitted). A taxpayer does not need to apply this rule in the first year of adoption of NZ IFRS 16, and can start to apply NZ IFRS 16 for tax in any income year following adoption. Once a taxpayer has chosen to apply NZ IFRS 16 for tax it must apply this method for all future years that NZ IFRS 16 is applied for accounting purposes.

How does a taxpayer choose to apply NZ IFRS 16 for tax?

An election is made by filing an income tax return that calculates deductions under the proposed new rule. No separate election or notification is required.

Is it as simple as applying the accounting treatment of NZ IFRS 16 for tax?

Unfortunately not. NZ IFRS 16 has the effect of accelerating some deductions – for example, when there is an impairment or make good provision. As the intention of applying NZ IFRS 16 for tax is not to significantly accelerate these deductions, there are proposed tax adjustments that may still be required so that a deduction is available in a similar period to when the expenditure is incurred (although in some cases this is optional) as well as some 'transitional' adjustments. Departures from the accounting treatment could arise where:

- *there is an impairment / revaluation adjustment* – it is proposed that this expenditure would be added back where it is recorded through the profit and loss and then spread over the remaining term of the lease on a pro-rata basis.
- *make-good expenditure is accounted for* – these costs are only deductible when incurred and therefore an adjustment would be made to prevent this expenditure from being treated as deductible before it is incurred by adding this back, which is likely to be in equal proportions over the remaining life of the lease. A deduction would be available when the expenditure is incurred in restoring the asset.
- *there are direct costs* – these costs are generally incurred at the start of the lease, and therefore it is possible to include a deduction for tax purposes when incurred and add back the direct costs expensed in the profit and loss, likely in equal proportions over the remaining life of the lease. This would be an optional adjustment given it is more favourable than following NZ IFRS. A taxpayer can choose to follow their accounting treatment and make no adjustments for direct costs.
- *a transitional adjustment is required* – these arise where there has been a retrospective application of NZ IFRS 16 on adoption, an election to apply this rule occurs in a year after the adoption of NZ IFRS 16 or where a lease that previously did not qualify now qualifies. This adjustment can be income or expenditure and is proposed to be spread equally over the transition year and the four subsequent years.

The commentary has some useful examples that illustrate these adjustments and how they are proposed to be calculated.

At the end of the lease, where the lease is no longer a qualifying lease, or where the taxpayer no longer follows NZ IFRS 16 for accounting, the taxpayer would need to undertake a wash-up calculation. This concept is similar to a base price adjustment for financial arrangements, and can give rise to income or a deduction.

It is clear from the above that applying NZ IFRS 16 for tax is not as simple as following accounting. Following this rule may in fact increase compliance costs, particularly if not all lease assets qualify under this proposed rule and departures from accounting are required where, for example, there is an impairment. `This rule is intended to only result in timing differences which should also be weighed up when deciding to choose to apply NZ IFRS 16 for tax.

The Commissioner has recently announced the exercise of her power to make variations (granted as a way to respond to COVID-19) and has varied the definition of a finance lease for tax purposes where certain criteria are met. Under the existing rules, a lease of "more than 75% of the asset's estimated useful life" is a finance lease, however this time period is extended to "more than 75% of the asset's useful life plus an additional 18 months" where the term of the leases is extended between 14 February 2020 and 30 September 2020 and the lease payment relating to the asset is less than $5,000 per month. For the variation to the definition of finance lease to apply, the lease must also be required to be extended because:

- The lessee was prevented or discouraged from returning the lease asset at its original date because of COVID-19 restrictions; or
- In the period between January 2020 and September 2020 the lessee's business has experienced a significant decline in actual (or predicted) revenue related to COVID-19 which made it difficult to satisfy the existing lease agreement.

This variation is a reasonable compliance saving measure that will allow taxpayers to continue to treat qualifying leases as operating leases for tax purposes where they might have otherwise needed to treat these as finance leases for tax purposes.

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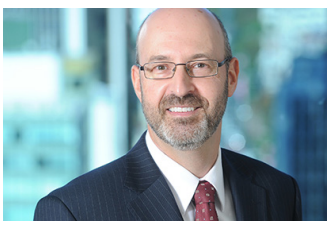

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R&D tax credits – latest developments and key considerations

By Simon Taylor, Brendan Ng and Denver Ingram

The Research and Development ("R&D") tax credit regime has been up and running for over a year now, with many taxpayers getting themselves in a position to complete and file their first returns. During this time the Government has been amending the regime to ensure it is fit for purpose, including introducing broader refundability of the tax credit, particularly for those taxpayers who are in losses (read more about refundability). This is particularly useful for any taxpayers who need access to a cash benefit now, not a tax credit they can carry forward into the future.

The Government has also proposed other clarifications, with the latest changes coming in the Taxation (Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters) Bill ("the June Bill"), which was introduced to Parliament on 4 June 2020. The June Bill proposes a number of amendments that impact the R&D tax credit regime, the most noteworthy of which introduces a change that will allow more capitalised R&D to be eligible, potentially significantly increasing the amount of R&D qualifying under the regime.

We discuss these most recent proposals below, followed by some key considerations and frequently asked questions that we've observed in our time working through the R&D tax credit regime.

Proposed changes to note

Tangible depreciable property – more employee costs are eligible

This proposal makes more capitalised expenditure on employee costs eligible for the R&D tax credit, if it is related to a core R&D activity. Previously employee costs capitalised into tangible fixed assets were ineligible (unless they fell within the prototype exemption covered below). This meant that many R&D activities that would have otherwise been eligible were excluded simply because they had been undertaken in a capital project. This change is welcome as it removes a bias against valid R&D activity in capital projects.

The proposed change is backdated to the commencement of the R&D tax credit regime i.e. from the start of the 2019/20 income year.

In our view the capitalised employee cost inclusion should be extended to contractor costs as well, as there should be no difference between the insourced and outsourced labour. Currently, eligible outsourced R&D can only be claimed if it has not been capitalised, and to the extent it relates to eligible R&D activities. In practice, outsourcing often occurs and it is common to find that outsourced costs relate to the most challenging / specialised aspects of R&D projects (e.g. design engineering).

Prototypes – clarification of eligibility

Further clarity has been provided in relation to the 'prototype exception', to ensure that expenditure on prototypes is only eligible where it is intended that the prototype is to be used solely in R&D throughout its lifetime, and where the creation of the item involves a core R&D activity. This means that upon a future change in use of an R&D prototype to a commercial use, it will be essential that the taxpayer can evidence that the property was originally intended to be used solely for R&D. We accordingly recommend that records of this intention be kept in respect of all R&D prototypes.

Mining development activities – specific exclusions

Currently, activities relating to prospecting, exploring, or drilling for minerals, petroleum, natural gas, or geothermal energy are already excluded from the regime. The June Bill proposes to extend this to explicitly exclude development activities as well (for example, developing land for the purposes of mining). There are also new exclusions for decommissioning expenditure and expenditure on land remediation.

The key point here is that the exclusions are intended to only target the broad development phase itself. If, however, there is R&D within any of these phases, this may still qualify. We have been working with both Inland Revenue and taxpayers on how these rules should practically apply in this sector and have a team of experts with first-hand experience in this area. If you are in an industry specified in one of these exclusions, please come and talk to us as you may still have R&D which will still be eligible.

Definition of eligible R&D expenditure

Currently, the regime provides a 15% tax credit for eligible expenditure **incurred on** eligible R&D activities.

The Bill proposes a new definition which would require expenditure to be:

- **required for** conducting an R&D activity;
- **integral to** conducting an R&D activity; and
- **directly related to** conducting an R&D activity.

This is worded as a clarification of the existing definition and as such it also has retrospective effect to the start of the 2019/20 income year. The emphasis on finding a close link between the cost and the R&D activity highlights Inland Revenue's concern that expenses remotely linked to R&D activities may make their way in to claims.

Satisfying the new criteria (if enacted) will be much easier to achieve where good records are kept explaining why expenses relate to the R&D activity and meet the three tests above. Read more about the basic documentation requirements.

Other amendments

The June Bill includes a number of other changes including:

- proposed amendments to the schedule of excluded expenditure;
- bringing forward the due date for submitting a criteria and methodologies application (relevant to larger R&D performers using the significant performer regime for the 2020/21 year onwards); and
- a positive amendment to extend the time bar period for consideration of requests made by claimants to increase their R&D tax credit claim after the initial claim has been filed.

Key considerations and frequently asked questions

With the 2019/20 tax year over for most taxpayers, income tax returns and R&D supplementary returns can now be filed and the R&D tax credit (or refund) accessed. We have been assisting businesses to prepare their claims throughout the year and are now seeing the first wave of R&D supplementary returns prepared for filing. From this experience, below are the answers to some frequently asked questions and key considerations.

With the impact of COVID-19 I'm constrained on cash – can the R&D tax credit regime help me?

The R&D tax credit is now able to be refunded for taxpayers in losses which creates a potential cashflow benefit available to businesses right now. We have found that the current economic climate has meant that many entities are now keen to understand the potential tax refund available from claiming under the R&D tax credit regime and want to progress their claims.

I heard that the Government has an R&D loan scheme?

The Government has recognised the value of R&D to New Zealand by introducing a R&D Loan Scheme to encourage R&D performing businesses to continue with their R&D activity post COVID-19. The loan will be up to $400,000 to spend on R&D activities (with interest of 3% applying only if the loan is not repaid in the first 12 months), and the loan will only be provided where it can be proven that a business' ability to finance their R&D activity has been impacted by COVID-19. If you think you qualify for the loan, please talk to us so we can work through your options, as if you qualify for the loan scheme it is likely that the R&D tax credit regime will be able to provide further benefits for you.

Is R&D just people in a laboratory in white coats?

While there is a lot of 'traditional' R&D activity going on, New Zealand is an innovative country with a history of leading the world in new developments across a broad range of industries and skillsets. In particular, a large number of the taxpayers we are working with are in the technology sector, and our team has valuable experience in this area. The R&D tax credit regime applies broadly, and many of the taxpayers we work with do not consider themselves to be R&D organisations.

How can I find out if I am undertaking an eligible R&D activity?

Deloitte has a team of R&D experts who have experience across a broad range of industries. If you would like to discuss how the R&D tax credit regime could benefit your business, please don't hesitate to contact our specialist R&D team or your usual Deloitte advisor.

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Operational taxes update: FATCA & CRS, QI and Investment Income Reporting

By Troy Andrews and Vicky Yen

FATCA & CRS

As part of their COVID-19 response, Inland Revenue has recently extended the 2020 Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) reporting deadline from 30 June 2020 to 30 September 2020. This gives reporting entities additional time to not only complete 2020 reporting, but also potentially investigate and remediate any issues. This opportunity is being taken by many financial institutions as Inland Revenue moves into its "assurance" phase with audit activity. This year is a critical year as what you report could have a bearing on whether you might be an early audit candidate. We discuss this further below.

Do you have FATCA & CRS reporting obligations?

As a reminder, the FATCA and CRS regimes were introduced to improve cross-border tax compliance. They require "Financial Institutions" to conduct due diligence on their account holders and to report certain information about the US/non-resident account holders to relevant tax authorities.

Our September 2019 article highlighted scenarios where FATCA and CRS have commonly been overlooked. A key takeaway is that under FATCA and CRS, "Financial Institutions" encompass not only entities such as banks and custodians (which fall under the "traditional" definition of a financial institution), but also in some cases, partnerships, trusts, and corporate trustees.

For example, a family trust may be deemed to be a Financial Institution if it has investments in financial assets (e.g. shares and bank deposits) and has a discretionary investment management service provider (such as a wealth advisor or bank) that has discretion over its investments.

Another common misconception is that FATCA is only applicable if there are US account holders. This a false assumption, as entities may still be required to register for FATCA and conduct the necessary due diligence procedures even where they do not have any US customers.

What are Inland Revenue's focus areas?

The first formal step in Inland Revenue's audit activity was to send a questionnaire to large financial institutions. This included a number of risk based questions such as:

- Various questions on internal controls, policies, procedures and data transmission – and whether these were ready for Inland Revenue to examine;
- What testing or review has been undertaken;
- What control deficiencies and remediation actions were taken;
- Whether an independent / external advisor reviewed your programme;
- Is management reporting to the directors on compliance of CRS; and
- Circumvention / avoidance questions.

These questions have served as a useful reminder for financial institutions of the level of maturity that Inland Revenue expects. These are not "set and forget" programmes.

We expect a similar focus from Inland Revenue in relation to the next phase of specific audit activity. The challenge often comes down to making sure that there is a clear, "auditable" paper trail. Getting to the right answer for reporting is often not enough to be compliant with the rules. For example, not all financial institutions will have built a policy for a simple "record keeping requirement" like making sure that you have "discoverable" failed account openings. It might be time to review your policies with a fresh set of eyes to ensure you are not just reporting everything you need to, but are also ready for audit.

A particular issue that is relevant for the reporting of accounts for the year ending 31 March 2020, is that this is the end of the window that financial institutions had to "obtain missing TINs" (a TIN is a US taxpayer identification number; the equivalent of an IRD number). We also understand that the US Internal Revenue Service (IRS) has started to escalate its enforcement processes if financial institutions have missing TINs. Unfortunately, if a TIN is not included in a financial institution's reporting, but the other information still is – which is required – then the lack of this information is difficult to hide from. For FATCA, the IRS activity might start the process of potentially revoking GIINs (Global Intermediary Identification Number). This takes 18 months from notification of non-compliance and highlights a real economic cost (as FATCA withholding could be suffered on any US sourced income). For financial institutions that are reporting on all recalcitrant accounts, this could seem like an unfair consequence of non-compliance.

Qualified intermediary

A "Qualified Intermediary" (QI) is an entity that acts as an agent for another person such as a custodian, broker or nominee. A non-US intermediary may enter into an agreement with the IRS to obtain QI status. Key benefits of having QI status include being able to provide non-US clients who receive US sourced income a reduced US withholding rate, and also not having to disclose confidential client information o upstream US custodians or to the IRS. See our September 2019 article for more information.

There has been a dramatic uptake in becoming a QI in New Zealand and Australia, following the threat of a FATCA withholding tax being imposed (30% on proceeds). While the IRS then removed the FATCA withholding tax, interest in becoming a QI has been maintained as there is a significant benefit in accessing the treaty tax rates (rather than much higher US domestic rates). The continued interest in obtaining QI status has also been fuelled by US withholding agents or custodians only agreeing to deal with QIs; meaning that a New Zealand custodian wanting to offer US investments to its clients might not have much of a choice (unless they go through another QI custodian).

Those with QI status should keep in mind that in addition to annual reporting to the IRS, a QI must have a compliance programme and make certifications to the IRS every three years which include the results of an independent review. The IRS has recently announced an extension until 15 December 2020, for those who were due to complete their periodic review by 1 July 2020 (or request a waiver).

Investment income reporting

Investment income reporting has become mandatory for payments of investment income from 1 April 2020. Key changes to note include:

- A higher penal 45% RWT withholding rate on interest applies from 1 April 2020 for taxpayers who have not provided their IRD number.
- RWT and NRWT withholding certificates no longer need to be provided to investors who have provided their IRD number.
- Nil returns for RWT and NRWT are now not required to be filed if there is no investment income to report, which in practice can have time bar issues.
- Company dividends statements are no longer required to be provided to Inland Revenue.

The net of all of the above, is that the compliance obligations in this area are complex and the consequences of getting it wrong can be severe. If you would like to talk about your obligations and getting assurance that nothing is falling through the gaps please contact your usual Deloitte advisor.

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Airbnb hosts, holiday home owners – have you got your head around the complexities of GST?

By Sarah Kennedy, Hua Lam

With COVID-19 restricting international travel and resulting in a closure of borders, this has impacted short-stay accommodation as many providers of short-stay accommodation were not able to operate as per usual. On top of this, there are GST issues to be considered if for example, a GST-registered provider of short-stay accommodation decides to change the way they operate and what was a short-stay property becomes a long term residential accommodation property.

Earlier this month Inland Revenue released an Interpretation Statement on the GST treatment of short-stay accommodation, which is the final item in a series of guidance on the tax consequences of providing short-stay accommodation through peer-to-peer websites such as Airbnb, Bookabach and Holiday Houses. The statement covers accommodation provided to guests for less than four weeks when on holiday, travelling for business etc. and includes staying in the host's home as well as separate or detached properties. The statement is 51 pages long so if there is one takeaway from this statement it is that the treatment of short-stay accommodation is complex.

For example, a change from short-stay accommodation to long-stay accommodation requires the taxpayer to repay the input tax credits previously claimed via what can be a really complicated annual change of use adjustment. The statement doesn't go into much detail in relation to these situations so have a look at our article on this topic.

We recommend reviewing short-stay rental properties to confirm that the historic treatment has been correct and to consider the impact of any possible change of use arising from COVID-19.

In a nutshell, the key aspect of the statement are as follows:

- The supply of short-stay accommodation is different to long-term residential rentals. The supply of long-term residential rentals is an exempt supply and is outside the GST net. On the other hand, the supply of short-stay accommodation is not an exempt supply, and therefore is almost certainly subject to GST at 15% if the owner is GST registered.
- The statement provides guidance on complex rules in relation to GST adjustments for capital and operating costs of the property. Annual change of use adjustments may be required if the actual use of the property changes from its intended use in any given year. This may become more prevalent in the COVID-19 environment if short-stay accommodation (i.e. taxable) pivots to long-term residential accommodation

(i.e. not taxable). Working through these rules, determining the amount of the adjustment and how frequently they need to be made is complex. We recommend that you seek advice prior to changing the use of a property and then get help with your 31 March GST returns each year so that these adjustments are made correctly.

- GST registration is compulsory if your short-stay accommodation income exceeds (or is expected to exceed) $60,000 in a 12-month period – you need to add together short-stay rental from all properties held by the entity in considering this threshold.
- Whilst it is possible that a provider of short-stay accommodation can voluntarily register for GST if the $60,000 threshold is not met, careful consideration needs to be taken to decide if this is the right decision for you. A downside of registration is that the sale of a property is subject to GST at 15% if it is sold to an unregistered purchaser. Where properties appreciate, the GST output tax on sale may be significantly higher than the GST input tax on purchase and operating expenses. This can impose a real and significant cash cost.
- Whether you need to or can register for GST depends whether you have a taxable activity. For most hosts, the crucial question is whether the short-stay accommodation activity is carried on continuously or regularly. Occupancy is a key (but not determining) factor, and regular paying guests will suggest a taxable activity. Renting activity that is intermittent or occasional such as renting a room for a one off sporting event will not be sufficient to establish a taxable activity.
- Once registered, a GST-registered person can claim input tax credits on costs that relate to GST-taxable income (e.g. advertising services, linen and toiletries purchased solely for use by guests). However, you need to be very careful about the amount that is claimed as GST can't be claimed on expenses that relate to the property being used privately or for making exempt supplies of long-term accommodation. The statement provides some guidance as to how you might undertake an apportionment of these costs.
- As discussed above, having tenants enter into a residential tenancy agreement on a property you have previously claimed GST on (i.e. the use of the property changes from short-stay to long-term rental) can have some large GST consequences. If multiple properties are held and use of some of these remain short-stay, then change of use adjustments will apply. However, if the taxable activity of supplying short-stay accommodation ceases because the entity holds only one property there is an obligation of notify the Commissioner within 21 days of the activity ceasing. Following this, the GST registration is cancelled and GST is payable on the open market value of the property at the de-registration date less any unclaimed GST input credits.

In summary, you should seek advice before switching the use of your short-stay accommodation if you are GST registered and have previously claimed back input tax credits. For more information please contact your usual Deloitte tax advisor.

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COVID-19: Infrastructure and tax: Shovels ready

By Troy Andrews, Annalie Hampton, Liz Nelson & Patrick McCalman

Shovel ready projects are today's recipe for New Zealand's construction led recovery. Our infrastructure deficit is well known as are the many challenges for investment. COVID-19 presents an opportunity to reset some of that deficit and those challenges. The Government's declaration of it being a sufficiently rainy day may well be the trigger for this change. We have worked through an overview of some of the participants, the tax settings and some of the challenges related to infrastructure below. We hope that tax is not forgotten in this reset opportunity.

Transaction types and participants

It is difficult to provide a single definition of an infrastructure transaction from a tax perspective. There is no special regime like there is for other sectors. Even if there was, it would quickly find a boundary, with infrastructure participants looking to find infra-like qualities in many assets.

The participants are also not capable of a consistent definition. The asset owner might be a taxpayer or an exempt entity such as a local authority (or maybe it's in a CCO, and so tax is back on the table again). The financing could be from a tax exempt entity (e.g. ACC), a taxable sovereign superannuation fund, an onshore or offshore bank – or the Government (who may or may not charge you interest). There is also a large variety of equity participants.

There is one unifying principle across all infrastructure projects, and that is complexity in the detail. However, certainty is needed in order to rely on the model that was due diligenced. Where there is an element of uncertainty it will be priced in and can destroy the risk versus reward or cost profile that infrastructure assets should provide. Tax should not be an element of uncertainty.

Getting tax certainty

From an administrative perspective, tax certainty is sought by obtaining a binding ruling under the Tax Administration Act 1994. A stoic requirement for the Inland Revenue ruling team is that they need to have an actual 'transaction' to rule on. This needs delicate management, as often the (up to) 3 month process of obtaining a ruling is an unavailable luxury during a strict timetable – from when the transaction structure and detail are sufficiently final.

Inland Revenue are increasingly seeing the commercial need for certainty and finding ways to help. This might be through using the indicative view process to gauge expected outcomes, or recent examples where we have seen Inland Revenue invest in starting their process much earlier and working with the taxpayer as the transaction evolves.

What entity to use?

Despite the different transaction types and participants, where new infra equity is required (or debt needs to be navigated to the right balance sheet) a new vehicle is generally required. Multiple entities might be suggested to help give the financiers a clear line to security, or to help quarantine different risks. From a tax perspective, the choices are relatively limited. Either a Limited Partnership (LP) is used (which is flow through for tax purposes) or a company (which is respected as a taxpayer).

Both have their advantages and disadvantages. An LP will mean that the tax attributes flow through to the investor, so for a tax exempt equity participant, an LP will be preferred. Against this, are the clunky attributes of an LP, including where an interest is transferred, or a new injection of capital is made. These transactions can create compliance complexity with partners triggering deemed disposals of the underlying assets (and the tax consequences that flow from that). Traditionally, a company has not been preferred for different reasons, one of which is an expectation of different possible shareholders over the life of the asset and the risk of either the introduction of new issues, such as thin capitalisation, or the loss of tax attributes such as the risk of losses being forfeited. The newly announced override for carrying forward losses for companies that carry on the "same or similar business" could be a catalyst to revisit this preference.

Depreciable property or financial arrangements

A traditional investor in infrastructure will often suffer a tax profile of early stage losses as significant capital expenditure is incurred / depreciated and interest is incurred, with low early stage income. Therefore managing and preserving expected losses is critical to executing on the model.

There is limited ability to smooth the volatility of the above tax profile within the depreciation rules, aside from requesting a specific depreciation rate determination. However, that is still referenced to the specific asset in question, rather than the wider economic reality of the project. Depending on the project, middle stage volatility can also mean that income could be derived much earlier as amounts that economically represent 'principal and interest' are taxed in full as income, with the depreciation deductions equalising in later years.

The financial arrangement rules provide a much more flexible ability to obtain a determination from Inland Revenue to smooth or change the timing of interest deductions (e.g. to align to income). This 'determination' flexibility has also meant that there is a preference to try and tie the various parts of a broader transaction to be seen as a financial arrangement from an income recognition perspective – to respect a 'principal and interest' return (rather than a depreciable asset with all amounts received being recognised as income). This means that a sensible economic yield can be found for tax purposes (and no risk of stranded losses).

Another issue that we see in some 'depreciable property' projects, is uncertainty in relation to being able to depreciate the asset. The depreciation rules do not have a back stop 'black hole' amortisation regime like other countries. While the new building depreciation rules should help, complexity is often found in land-related assets / fixtures. First, whether the taxpayer owns the land or building asset – a single asset might be buried or part of the taxpayer's land, their private neighbours land, and public land. For tax purposes, the rules generally require the taxpayer to own the asset or fall within the leasehold improvement test (i.e. they lease the land). Second, the schedule of land improvements includes many boundaries and is quickly out of date, not being principle based – e.g. a swale is not caught, but a reservoir is, a road is, but a driveway isn't.

Thin capitalisation

One of the first questions that a prospective non-resident investor will ask, is what will the thin capitalisation regime mean for the project in relation to the amount of debt that can be introduced. The thin capitalisation rules are complex to work through but are a significant variable in the transaction economics.

At a policy level it was agreed that the Public Private Partnership (PPP) model should be able to have as much third part debt as the nature of the asset or transaction could support. This meant that very prescriptive rules were introduced for the 'PPP' model transaction to alleviate the thin capitalisation burden. As PPPs have fallen out of favour of the Government with other transaction models preferred, the concession has become redundant for new transactions. There is a long list of policy demands that Inland Revenue are working through, but hopefully a more principle based concession for infrastructure projects will provide more agility. In the meantime, taxpayers might need to refocus on finding the right definition of their transaction and it being a financial arrangement which may have a preferred outcome.

The restricted transfer pricing rules can also be a new shock to the infrastructure system. The restricted transfer pricing rules were one of the New Zealand Government's reaction to base erosion and profit shifting (BEPS). In effect, where there is cross border related party debt, the starting point to calculate an interest deduction is based on the 'best credit rating in the world wide group' – where a bank or sovereign is involved – this will often be a very high grade. Where that bank / sovereign is providing the debt financing for the project, the rules can bite, as the outcome is often double taxation (as the jurisdiction of the lender will often demand a lower credit rating – closer to the borrower's standalone position).

Tax economics

The mix of debt and equity will drive the tax economic cost to reflect in the model, with the return on equity expecting to suffer tax at the New Zealand corporate tax rate of 28%.

For external imported debt (not associated with the borrower), New Zealand has the option of the approved issuer levy (AIL) regime. Where AIL applies then the non-resident withholding tax rate is replaced with a 2% levy. New Zealand law only includes a very narrow type of widely held debenture to be more concessionary, with an AIL rate of 0%. This type of regime could support a wider program of infrastructure bonds – if there was a coordinated platform (instead, the regime is not often used).

Where debt is from an associated party then the AIL regime is not available, and withholding tax should be expected (at the treaty rate, otherwise you should assume full profit taxation under domestic law).

Labour force

A significant economic expectation from the investment in infrastructure will be employment opportunities. Our experience from other intense infrastructure environments is that New Zealand often has a limited supply of the right technical expertise. In order to accelerate the broader employment opportunities, global expertise will often be imported.

New Zealand does not have infrastructure specific rules in relation to individuals relocating for a particular project. Under domestic law, there is an exemption for short term visitors (92 days). Under different treaties this might be extended to 183 days. For both, there are careful eligibility criteria to work through e.g. under the Australia New Zealand Double Tax Agreement (DTA), if it amounts to a secondment then the test is 90 days.

For the non-resident employer there can also be implications from its employees being on the ground. It is likely to give rise to New Zealand sourced income under domestic law. The detail of any DTA will need to be studied carefully. Taking the Australia New Zealand DTA as an example, a building or construction site that lasts more than 6 months will generally create a permanent establishment. Similarly, a permanent establishment can arise from the operation of substantial equipment or having employees on the project or connected projects for 183 or more days.

The above tests are only an introduction to the complexity that non-resident participants need to manage. It is difficult to get upfront certainty as plans and timelines change and day counts can be a tail that wags the tax dog for both the employee and the employer.

Summary

New Zealand is an importer of capital and skills. The current COVID-19 conversation is about identifying regulatory constraints and bulldozing these into a specific program for shovel ready projects. We will wait to see whether there might also be a modern response to the right tax settings to help enable the cause. Such would be welcome to ensure that the New Zealand tax system does not act as an impediment to New Zealand's road to recovery. Otherwise, we expect that each significant project will need to navigate the many areas of tax structuring and compliance to help support an investable model. The risk is that other countries might compete more strategically, with targeted concessions and presenting an easier environment to actually be shovel ready. As an early emerger from COVID-19, New Zealand has the opportunity to steal a march in the inevitable competition for skilled infrastructure partners; but only if our settings, including tax, are appropriate.

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COVID-19: Understanding the Wage Subsidy Extension

By Robyn Walker

As well as making the move from Alert Level 2 to Alert Level 1 and the clear signal our economy is moving from "responding" to "recovering" from COVID-19, June marked the end of the Wage Subsidy Scheme and the beginning of the Wage Subsidy Extension Scheme.

The Wage Subsidy Scheme was designed to run from the period 17 March through to 9 June, and with that period now finished, its successor, the "Wage Subsidy Extension Scheme" (WSE Scheme) takes its place. Over 71 percent of all businesses in New Zealand received support under the Wage Subsidy Scheme due to the major impact the Level 4 Lockdown had on businesses. The WSE Scheme is designed to be more targeted towards the businesses who are still needing support, with an estimated 230,000 businesses being eligible.

While identical in many respects, there are some key differences between the WSE Scheme and the original Wage Subsidy Scheme.

What is the same?

- The same business types can apply, including companies, partnerships, self-employed, contractors, charities, etc.
- Payment is made in an upfront lump sum.
- Payment rates are $585.80 per week for a full time worker and $350 per week for a part time worker.
- A full time worker is one which works 20 or more hours per week and a part-time worker is less than 20 hours.
- Employers need to seek written consent from employees that a wage subsidy can be sought in respect of them. Employers should share privacy information with employees.
- Employers need to commit to retaining staff which the WSE Scheme is received in respect of.
- The WSE Scheme amount must be passed on in full to employees (unless they ordinarily earn less).
- Employers should do their best to pay employees at least 80% of their normal pay and must follow all employment laws.
- Recipients need to have taken active steps to mitigate the impact of COVID-19 on their business.
- New businesses, high growth businesses, and R&D start-up businesses will be able to measure revenue decline in slightly different ways; e.g. making a comparison to revenue within 2020 rather comparing to 2019.
- All recipients need to read and agree to a detailed declaration.
- Applications are made through the Work & Income website, with a separate CSV upload process for employers with over 100 staff.

You can find further details about the original Wage Subsidy Scheme in our previous articles here, here and here.

What is different?

- Businesses need to have suffered a 40% (rather than 30%) decline in revenue over a 30 day continuous period, compared with a comparable period in 2019.
- The WSE Scheme runs for an eight week period (rather than 12 weeks), meaning

the payments are $4,686.40 for a full time employee and $2,800 for a part time employee.

- It is clearer when repayments are required. For example if a self-employed person makes a claim, they must repay the subsidy to the extent it is greater than what they would ordinarily draw from the business; if an employee leaves, the WSE funds must be used to help other employees, if there are no other employees any balance must be repaid.

When can claims be made?

While the WSE Scheme opened for applications at 9am on 10 June, there will not be an avalanche of applications on that date as it is not possible for an applicant to be in receipt of the original wage subsidy and the new WSE at the same time; i.e. an applicant must have waited 12 weeks from the date they applied for the original wage subsidy before applying for the WSE Scheme.

When the Wage Subsidy was originally introduced on 17 March New Zealand didn't have an Alert Level system and it was largely "business as usual" for many businesses, in addition the Wage Subsidy was restricted to providing a maximum benefit of $150,000 per employer (equivalent to supporting 21 full time workers). However on 21 March, the Alert Level system was introduced, and with New Zealand moving to Alert Level 3 on 23 March the decision was made to remove the $150,000 cap on the Wage Subsidy. As can be seen in the aggregated Wage Subsidy data (table 1), after 40,415 applications in the first few days of the scheme, more than 280,000 applications were submitted in following the week when New Zealand moved to Alert Level 4. The following week, after further amendments were made to the Wage Subsidy on 27 March to provide more flexibility for employers, an additional 96,000 applications were submitted.

What this means, is that from 10 June, there will be a potential pool of 40,415 businesses who will be able to apply for the WSE Scheme if they meet the new scheme criteria; the following week an addition 280,000 businesses can consider applying etc. After a couple of weeks, 72 percent of existing wage subsidy recipients will be eligible to potentially reapply.

One of the issues for businesses to grapple with is the need to make multiple applications in the event that a business did not apply in respect of all of its employees at the same time. Given the numerous changes to the rules of the original scheme, a number of businesses may have made a number of wage subsidy claims. Simply due to the logistical headache of manually filling in the online form when the benefit was capped at $150,000 an employer might have just filled in 22 names, then needed to reapply for other employees after 23 March, if an employer had new starters during the 12 week period they would have completed separate applications. As a result, for each tranche of employees a new assessment of revenue loss will need to be made, and separate applications made.

Table 1: Aggregate weekly Wage Subsidy applications as at 12 June 2020

	20/03	27/03	03/04	10/04	17/04	24/04	01/05	08/05	15/05	22/05	29/05	05/06	12/06
Applications received	40,415	323,047	419,390	476,176	510,889	535,566	548,212	559,847	569,344	577,177	583,913	589,171	639,455
Applications approved	8,574	193,990	275,711	372,957	404,479	426,253	435,560	444,075	449,551	454,433	458,535	461,036	488,938
Applications closed	1,689	9,019	24,584	63,329	67,448	70,164	71,962	73,496	73,985	74,644	75,290	75.662	77,820
Applications declined	12	1,164	14,815	25,732	29,906	33,628	35,602	38,552	41,386	44,985	48,429	50,475	62,165
Percentage of total applications	6%	51%	66%	74%	80%	84%	86%	88%	89%	90%	91%	92%	100%

Data sourced from: http://msd.govt.nz

Table 2: Weekly Wage Subsidy payments as at 12 June 2020 ($m)

	20/03	27/03	03/04	10/04	17/04	24/04	01/05	08/05	15/05	22/05	29/05	05/06	12/06
Aggregate amount	281	3,772	5,361	8,900	10,066	10,460	10,603	10,769	10,850	10,929	10,990	11,024	11,204
Incremental amount	281	3,491	1,589	3,539	1,166	394	143	166	81	79	61	34	180
Percentage of total (aggregate)	3%	34%	48%	79%	90%	93%	95%	96%	97%	98%	98%	98%	100%

Data sourced from: http://msd.govt.nz

What is the new revenue reduction test?

The key new issue for businesses to grapple with is demonstrating at least a 40% reduction in revenue. While with the original Wage Subsidy Scheme there was the ability to apply on the basis of a prediction of having a 30% reduction of revenue in any month prior to 9 June, under the new WSE Scheme it is necessary for the revenue loss to have already occurred prior to application. This will be a stumbling point for a number of businesses, however the WSE Scheme is intended to be targeted towards those businesses who are most impacted by COVID-19; for example the tourism and hospitality sectors who may be likely to easily satisfy this test. Other businesses will need to stop and fully assess before rushing to make applications.

One aspect which may cause confusion is the statement on the WSE application page: *"Your business must have experienced a minimum 40% decline in revenue for a continuous 30 day period. This period needs to be in the 40 days before you apply (but no earlier than 10 May 2020) and must be compared to the closest period last year. The decline must also be related to COVID-19."* In essence what this is saying is:

- A business needs an actual 40% revenue loss before it can apply.
- The revenue loss is measured on a 30 day period, but there are generally 10 days leeway to complete necessary administrative processes (see below) before an application needs to be made.
- The revenue loss needs to have occurred from 10 May 2020 (i.e. towards the end of New Zealand's second phase in Alert Level 3), therefore businesses applying in the first 5 days of the WSE Scheme won't have a full 40 day period to evaluate due to the inability to look further back than 10 May 2020.
- Revenue is compared to the closest logical period in 2019. For example, if a business does not operate 7 days a week, it should do a comparison to a period with the same number of working days.

Administrative requirements

An important aspect of the WSE Scheme is ensuring there is transparency over who is receiving it, therefore there is a requirement on applicants to notify in writing all employees included in an application, and to obtain consent that an application can be made. This position is the same as with the original Wage Subsidy Scheme, however in that instance there was conflicting guidance released by the Privacy Commission advising that employee information could be provided without approval due to the Civil Defence National Emergency status in place at that time. Given this is no longer in place, completing this step prior to applying is essential this time around. There are a number of obligations in relation to communicating with employees included in the declaration and these should be followed before applying.

It is also important the businesses document in full how they are eligible for the WSE Scheme and the steps taken to mitigate the impact of COVID-19. We have seen an increase in audits and reviews of Wage Subsidy applications, so being prepared at the time of application is an important step. For those who applied for the Wage Subsidy Scheme on the basis of a predicted revenue drop to 9 June 2020, we expect to see more queries from the Ministry of Social Development asking applicants to verify that the predicted revenue drop has actually materialised. If not, the Wage Subsidy will need to be repaid (as 12 June 2020, $158.2million of Wage Subsidy payments have been refunded from 5,134 applicants).

Example: The Boxy Cinema

The Boxy Cinema has been severely impacted by COVID-19, at first having to reduce cinema capacity by 50% to allow social distancing between groups of cinema-goers, then being shut from 23 March when the country moved to Alert Level 3. Since reopening in Level 2 from 14 May, because of limited cinema capacity, a lack of new release blockbusters, social distancing requirements for the café and cancelled events the Boxy Cinema continues to be over 40% down on revenue when comparing revenue to May / June 2019. Since March 2020 the Boxy Cinema has been taking active steps to mitigate COVID-19, including introducing online-streaming events and home deliveries of food, as well as engaging with its bank and advisors.

The Boxy Cinema has 30 employees. When the wage subsidy scheme first started on 17 March, the Boxy Cinema made a claim for 22 full time employees, allowing them to receive the maximum wage subsidy amount (at that time) of $150,000. On 23 March an additional wage subsidy claim was made for the remaining 8 employees when the cap was removed.

On 10 June, after reading the declaration in full and notifying employees, the Boxy Cinema is able to make a claim for 22 full time employees based on reduced revenue in the period of 11 May 2020 – 9 June 2020. On 20 June the Boxy Cinema is able to make another application for its 8 remaining employees; it is able to use the same revenue loss as calculated for the first WSE Scheme application as 11 May 2020 is the 40th day before 20 June 2020.

We have a team of specialists who are helping our clients with Wage Subsidy claims and audits. If you need advice on the scheme please get in touch.

This article does not constitute professional advice. If you wish to understand the potential implications of current events for your business or organisation, please get in touch. Alternatively, our COVID-19 webpages provide information about our services and provide contacts for relevant experts who can help you navigate this quickly evolving situation.

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Snapshot of recent developments:

Tax legislation and policy announcements

Special report on the COVID-19-related legislation

On 19 June 2020, Inland Revenue released a special report, Public 2020 No 8 and No 10 which provides early guidance on the tax measures included in the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 and the COVID-19 Response (Further Management Measures) Legislation Act 2020. The guidance includes detailed analysis and examples of the temporary loss carry-back scheme (more details are included in our May 2020 Tax Alert), the Small Business Cashflow Loan Scheme and commentary on how the Commissioner will exercise her new temporary discretionary powers in relation to COVID-19 matters.

In-work tax credit grace period

On 29 May 2020, the Government announced a proposed change to the In-Work Tax Credit as part of the COVID-19 Response Recovery Fund. The proposal is to allow a family currently receiving the in-work tax credit to continue receiving the payments for up to two weeks when taking an unpaid break from work. Payments will stop if a recipient goes on a benefit. Draft legislation containing the proposal is expected to be introduced soon and is intended to take effect from 1 April 2021.

Tax write-off threshold increased to $200

The Government has enacted legislation to temporarily increase the write-off threshold for tax payable from an end of year assessment to $200 (increased from $50). This applies for the 2019-2020 income tax year only and is available for individuals whose end of year tax liability is calculated by Inland Revenue's automatic income tax calculation process. The measure, which applies from 3 June 2020, is expected to reduce the tax bills for approximately 149,000 taxpayers.

Small Business Cashflow Loan Scheme application period extended

On 5 June 2020, the Government announced the application deadline for the Small Business Cashflow Loan Scheme will be extended from 12 June 2020 to 24 July 2020. There has been a high demand for the loans which are interest free if repaid within a year. Inland Revenue is advising applicants to read the conditions and eligibility carefully before submitting their application. More details about the scheme are included in our May 2020 Tax Alert.

COVID-19 Income Relief Payment Act enacted

The Social Security (COVID-19 Income Relief Payment to be Income) Amendment Act 2020 was enacted on 2 June 2020.

The Act ensures that a payment received by a person under the COVID-19 Income Relief Payment Programme is treated as the person's income for the purposes of the Social Security Act 2018.
The Government announced that the payment will not be taxed.

Applications for the Programme can be made from 8 June 2020 to 13 November 2020. Payments will be made available for eligible people who have lost their jobs on or after 1 March 2020 and 30 October 2020 due to COVID-19. Approved applicants can receive payments for up to 12 weeks. Where full-time work has been lost (normally working at least 30 hours per week) applicants will be paid $490 a week and where part-time work has been lost (15–29 hours per week) payments of $250 per week will be made. More information on the Programme can be found here or on Work and Income website.

Inland Revenue statements and guidance – Finalised items

COVID-19 variation determinations released

During May and June, Inland Revenue issued eight COVID-19 Variation Determinations under the new discretion provided to the Commissioner, under section 6I of the Tax Administration Act 1994 ("TAA"). The variation determinations include:

- COV 20/01 – variation to section HB 13(3)(b) of the Income Tax Act 2007:
  This variation, valid between 13 May 2020 and 30 June 2020, extended the time to make an election to be a look-through company for the 2019 income year provided the election was received by 30 June 2020.
- COV 20/02 – variation to section EI 1 of the Income Tax Act 2007. Section EI 1 of the Income Tax Act 2007 allows a person to spread income from timber to previous income years. A person must apply in writing to the Commissioner no later than 1 year after the end of the income year in which they derive the income. Under this determination, the time for making that application, for income derived in an income year ending between 25 March 2019 and 31 May 2019, has been extended to 31 July 2020 using s 6I of the TAA. A further extension has since been provided for this issue – see COV 20/06 below.
- COV 20/03 – variation of the application of s 15D(2) Goods and Services Tax Act 1985 to extend time to make an application to change GST taxable period. Issued on 6 June 2020, taxpayers with a 6-month GST period ending on 31 March 2020 were provided with an extension until 30 June 2020 to elect to move to a monthly rather than six-monthly GST return period, subject to the taxpayer not subsequently electing to change from a 1 – month taxable period before 30 September 2020.
- COV 20/04 – variation in relation to s DB 31 Income Tax Act 2007 to extend time for writing off bad debts. This variation, issued on 6 June 2020, applied to a person who wished to claim a deduction in the 2020 income year for a bad debt. The variation recognises that the impact of COVID-19 meant that some taxpayers were not able to write off debts as bad during their 2020 income year, and so the Commissioner extended the time for writing off debts as bad for a short period until 30 June 2020. The variation is subject to the two conditions that the person did not write off the debt by the end of the 2020 income year as a result of the impacts of COVID-19, and that the person takes into account only information that was relevant as at the end of their 2020 income year.

- COV 20/05 – variation in relation to s RP 17B(4) of the Income Tax Act 2007 to extend time for tax pooling transfers. This variation, issued on 11 June 2020, allows an extension of time for taxpayers to use a tax pooling intermediary to arrange the transfer of an amount to satisfy an obligation for provisional tax, terminal tax or use of money interest on the provisional tax or terminal tax for the 2019 income year. The time period is extended to 365 days after a person' terminal tax date for the 2019 tax year. This is subject to the conditions below:
  - The transfer relates to a contract the taxpayer has with the tax pooling intermediary that is in place on or before 21 July 2020 to purchase tax pooling funds; and
  - In between the period January – July 2020, the taxpayer's business must have experienced, or will be expected to experience a significant decline in revenue as a result of COVID-19, which means that in respect of the 2019 tax year the taxpayer was either:
    a. unable to satisfy their existing commercial contract, or
    b. was, prior to this variation, not able to enter into a commercial contract with a tax pool and the decline in revenue is related to COVID-19.
    The variation applies to the period 11 June 2020 to 7 April 2021.
- COV 20/06 – variation to section EI 1 of the Income Tax Act 2007. This variation issued on 18 June 2020, supplements COV 20/02 – Variation to section EI 1 of the Income Tax Act 2007, which extends the income years for taxpayers who wish to allocate timber income derived in an income year ending between 25 March 2019 and 30 June 2019 (previously 25 March 2019 and 31 May 2019) to any one or more of the previous three income years. The date the application in writing must be received has been extended to 31 July 2020.
- COV 20/07 – variation in relation to s 70C of the Tax Administration Act 1994 to extend deadline for filing statements in relation to R&D loss tax credits.
  This variation, issued on 24 June 2020, extends the time period for filing a statement in relation to R&D loss tax credits or R&D repayment tax to 31 August 2020.
- COV 20/08: Variation in relation to the definition of "finance lease" in s YA 1 of the Income Tax Act 2007 applies to prevent a lease inadvertently becoming a finance lease for a reason related to COVID-19.

CPI adjustments for 2020

During May 2020, Inland Revenue published annual adjustments as a result of the Consumer Price Index (CPI) movement to the following statements:

- OS 19/03: the square meter rate for the dual use of premises for the 2020 income year is set at $42.75 (2019: $41.70).
- DET 19/01: The annual adjustment to the standard-cost for household boarding service providers has been updated to $191 (per boarder).
- DET 19/02: The short stay accommodation rates have been updated and the daily standard-cost is $51.00 for an owned dwelling and $46.00 for a rented dwelling.
- DET 09/02: The annual adjustment to the standard-cost household service for childcare providers has been updated. The hourly standard cost (per child) is $3.70. The annual fixed administration and record keeping standard cost has risen to $361.
- The kilometre rates for the business use of vehicles for the 2020 income year are not yet available. Inland Revenue has advised taxpayers to continue to use the 2019 rates and if there is a material difference when the rates are available, to make an amendment through section 113 or section 113A of the TAA.

SPS 20/03: Request to amend assessments

On 2 June 2020, the Commissioner issued SPS 20/03 – Requests to amend assessments. This statement sets out Inland Revenue's practice for exercising the Commissioner's discretion under section 113 of the TAA to reopen and amend assessments to ensure their correctness. This statement applies from 2 June 2020 and replaces all previous statements regarding the exercise of the discretion under section 113.

New holding period tests in the NZ/Australia Double Tax Agreement

On 17 June 2020, Inland Revenue issued Commissioner's Statement CS 20/03 – NRWT for dividends paid to companies: Administering the new holding period tests in Article 10 of the NZ/Australia Double Tax Agreement (and in agreements with other countries). With effect from 1 January 2019, Article 8 (1) of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("MLI") modified article 10 of New Zealand's double tax agreement with Australia with regard to the holding period for shares before a dividend can be paid at reduced rates. Prior to the application of the MLI it was necessary to hold shares for 12-month holding period prior to the dividend payment date in order to use the zero rate, but there was no holding period requirement to use the 5% rate. The effect of the MLI is to introduce a 365-day holding period requirement in order to both the five percent rate and zero rate. A further change is that the holding period requirement can be met having regard to use share ownership after a dividend is paid as well as before. If a shareholder has not satisfied the holding period requirement at the time a dividend is paid, but may satisfy it in the future, the Commissioner's view is that NRWT must be withheld from the dividend at the 15% rate, and a refund sought once the holding period test has been satisfied.

The same approach will also apply to New Zealand's double tax agreements with Mexico and Canada, as NZ has agreed for these DTAs to be covered agreements under the MLI. The MLI does not apply to China, but this rule has been written directly in the recently negotiated China Double Tax Agreement that came into force in 2019, so the same approach will be applied.

Healthy homes standard deductions

On 17 June 2020, Inland Revenue released Questions we've been asked QB 20/01 – Can owners of existing residential rental properties claim deductions for costs incurred to meet Healthy Homes Standard. This document is a finalisation of the previous draft issued in February 2020. Refer to our previous article for more information on this.

Temporary loss carry-back regime

On 15 June 2020, Inland Revenue released IS 20/03: Income tax – section GB 3B and GB 4 of the Income Tax Act 2007 – temporary loss carry-back regime. This statement focuses on the Commissioner's view of the application of the specific anti-avoidance provisions relevant to companies using the temporary loss carry-back regime (i.e. section GB 3 – arrangement for carrying back net losses: companies and section GB 4 – arrangements for grouping tax losses: companies).

National Average Market Values of Specified Livestock Determination 2020

On 26 May 2020, Inland Revenue issued a determination which includes the national average market values of specified livestock and shall apply to specified livestock on hand at the end of the 2019-2020 income year.

GST: supplies by New Zealand outfitters and taxidermists to overseas hunters

On 25 May 2020, Inland Revenue issued the finalised interpretation statement IS 20/02: Goods and services tax – supplies by New Zealand hunting outfitters and taxidermists to overseas hunters.

The following factsheets were also released:

- IS 20/02 FS 1: GST – Supplies by New Zealand hunting outfitters or guides to overseas hunter
- IS 20/02 FS 2: GST – Supplies by New Zealand taxidermists to overseas hunters and New Zealand outfitters
- IS 20/02 FS 3: GST – Overseas hunters in New Zealand for big game guided hunting

Inland Revenue also issued Commissioner's Statement CS 20/02 Trophy hunting and the GST treatment of the "Trophy Fee" which is effective from 25 May 2020.

Inland Revenue – draft items for consultation

UN Joint Staff Pension Fund

On 28 May 2020, Inland Revenue released a draft Question We've Been Asked (QWBA) PUB00348: Income tax – monthly retirement payments from the United Nations Joint Staff Pension Fund. It is available for public consultation until 9 July 2020. This QWBA sets out the tax treatment for retired UN staff who are New Zealand tax residents and transitional residents.

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