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Tax Alert

July 2021

EVs, car fees and the role of tax in the path to net zero

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EVs, car fees and the role of tax in the path to net zero

By Ian Fay and Emma Marr

If you feel like you've heard about nothing other than electric vehicles (EVs) and utes recently, you might have to adjust your settings, because the conversation about cutting emissions and decarbonising to move to a net zero emissions target is only just getting started. Tax will be at the heart of the response, driving action by governments, businesses, and individuals.

You will all have a role to play.

The Climate Change Commission have released their advice on climate change in New Zealand to the Government, and their call was clear: Ināia tonu nei: the time is now. Their view is that New Zealand is not on track to meet our legislated emission reduction targets. Our emissions are increasing, and as a country we need to start making transformational changes to our infrastructure, the technology we use, the speed with which we act, and the economic and social changes we are willing to make.

Within days the Government announced a fee and rebate scheme to incentivise greater adoption of low-emission vehicles, which we discuss further below.

What role can tax professionals play?

The Government must prepare an Emissions Reduction Plan by the end of 2021. This will set the emissions budget for 2022-2025. While governments around the world are moving to mandate behaviour to achieve net zero emissions, many people and businesses are already making changes to reduce their emissions and commit to sustainable development. Consumers driven to do so will increasingly demand that the businesses they buy from are making the same effort.

As the fiscal, legal, social and environmental changes impact on business operations, internal and external tax specialists will assist businesses in multiple ways, including:

- Understanding and responding to government use of taxes, grants, and incentives to change behaviour.
- Monitoring tax changes at a local and global level, to identify risks and opportunities.
- Partnering with business in adapting changes to strategy, including increased digitisation and other uses of technology that support emission reduction.

Globally Deloitte is examining the role of tax strategy in supporting the response to climate change, and has published the first article in a series on "Tax and the road to net zero", exploring why heads of tax need to be involved in their organisation's journey to 'net zero'. The accompanying "six questions for tax leaders to consider" prompts an assessment of the way that tax professionals can be ready to respond and contribute to business transformation.

Introducing: the Clean Car Discount and the Clean Car Programme

Businesses will be turning to their tax and finance team to digest the most recent climate-related government announcement. One of the many recommendations of the Climate Change Commission is that nearly all cars imported by 2035 must be EVs. Currently 0.6% of light vehicles in New Zealand are EVs. In response the Government has introduced a rebate for qualifying vehicles from 1 July 2021, and a fee for high-emitting vehicles from 1 January 2022. Both the fee and rebate apply only to new and used imported cars.

The Clean Car Discount will enable purchasers of imported EVs and plug-in hybrid electric vehicles (PHEVs) to receive a rebate if the vehicle:

- cost less than $80,000;
- is a "light vehicle", which means a car, SUV, ute, van or truck weighing no more than 3.5 tonnes;
- is registered between 1 July and 31 December 2021; and
- has a safety rating of 3 stars or more on the Rightcar website.

The level of rebate depends on the type of vehicle and whether it is new or used (see graphic below) and can be applied for by the vehicle owner once the vehicle is registered. The rebate includes GST, so GST-registered owners will return the GST component to Inland Revenue. There is a fund for rebates, and once it is exhausted no further rebates will be available until the scheme restarts.

The value of the car for fringe benefit tax (FBT) and tax depreciation purposes will be calculated after the fee or discount is applied.

Clean Car Discount

Rebates 1 July to 31 December 2021

What are the rebates?

New EV: **$8625*** New PHEV: **$5750*** Used EV: **$3450*** Used PHEV: **$2300***

Step 1

Buy

Choose an EV or PHEV

- New and used imports
- New registration
- 3-star safety rating or above+
- Less than $80,000 including GST and on-road charges

Step 2

Apply online

Registered person applies online to Waka Kotahi for rebate

Provide the sale agreement, plates number and bank account

Step 3

Get your rebate

Waka Kotahi transfers rebate to registered person's bank account

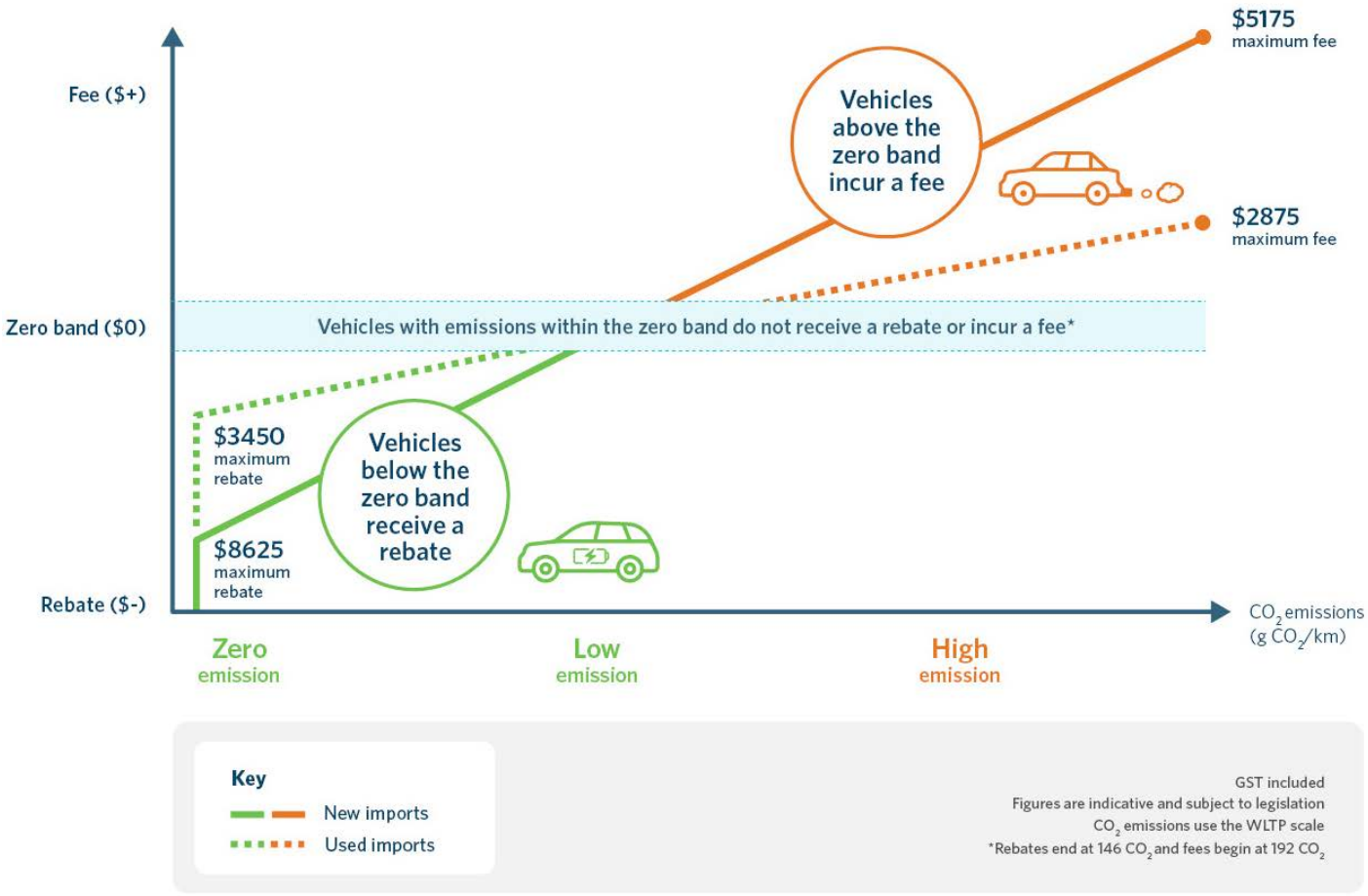
Key
EV = Battery Electric Vehicle
PHEV = Plug-in hybrid electric vehicle

*Subject to available funding. All figures include GST
+Safety ratings available at **www.rightcar.govt.nz**

From 1 January 2022 the Clean Car Programme will be rolled out, subject to legislation being passed. Fees and discounts will be set according to $C0_2$ emission ratings, which measure the grams of carbon dioxide emitted by the vehicle per kilometre travelled. Rebates would end at 146 $C0_2$ and fees would begin at 192 $C0_2$. Anything in between would have no rebate or fee. For example, a Mini Countryman plug-in ($C0_2$/km, 59) would qualify for a rebate, a Toyota Hilux ($C0_2$/km, 236) would be subject to a fee, and Toyota RAV4 ($C0_2$/km, 160) would be unaffected. The specific fees and discounts will be set later this year, but they will sit within the limits in the graphic overleaf.

Vehicle dealers will be required to display $C0_2$ emission ratings on cars for sale and in online advertising from 2022.

Clean Car Programme 2022



FBT and the great New Zealand ute

Since the Clean Programme announcement, a fair amount of media attention has been directed at the popularity of utes. In 2020 three of the top five selling cars in New Zealand were utes. There are no EV or PHEV utes available in New Zealand now or in the near future. Some discussion has been directed at the perceived "tax break" available to utes.

"Work-related vehicles" provided to employees are exempt from FBT where specific criteria are met. The vehicle cannot be a car, must display the employer's identification, may be available only for very specific and limited private use, and agreements on use must be agreed and monitored. For every day these criteria are met, the vehicle is exempt from FBT.

Inland Revenue has generally accepted a "car" does not include a ute, double-cab or not, because a ute is not designed "exclusively or mainly to carry passengers". The proliferation of utes at school pick-ups, supermarket carparks, and high streets may suggest that this approach could benefit from closer examination, or at the very least Inland Revenue could use their extensive data-mining capabilities to assess whether the FBT exemption is well understood. If not, the Clean Car Programme may drive some double-cabbers to consider switching to a lower emission vehicle anyway.

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Alert Level 2 again: What this means

By Robyn Walker

With Wellington moving to COVID-19 Alert Level 2 from Wednesday 23 June through to Tuesday 29 June, another round of the Resurgence Support Payment was triggered. In this article we explain the eligibility criteria for this payment as well as providing a reminder of other government support available.

What is available at COVID-19 Alert Level 2

A "Resurgence Support Payment" (RSP) is available when New Zealand, or any region/s within the country, moves to COVID-19 Alert Level 2 (or higher) for **seven days or more**. As Wellington entered Alert Level 2 on Wednesday 23 June 2021, once it was decided to extend this through to Tuesday 29 June the seven-day threshold was reached.

This payment will be available to businesses which see a 30% or greater reduction in revenue as a consequence of the change in Alert Level.

To determine whether this criterion is met, businesses will need to show an actual 30% reduction over a seven-day period following the change in COVID-19 Alert Level, as compared with typical seven days of revenue in the six weeks immediately before the change in levels. The RSP will be available to all businesses (including sole traders) that have been operating for six months or more. Full eligibility criteria can be found here.

The value of the payment will depend on the size of the organisation; individual businesses will receive a payment of $1,500, plus an additional $400 per employee, up to a total of 50 FTEs. This means the maximum payment available will be $21,500. There is also a 'lesser of' test, meaning that the amount of the payment is the lesser of the amount calculated using the previously mentioned formula and four times the actual revenue decline.

As compared with previous iterations of the RSP, the government is now taking a more lenient approach to groups of businesses. Previously it only a commonly owned group of companies could only claim up to the maximum amount of $21,500. Under the latest RSP, the settings have been adjusted to allow group members within a commonly owned group to each receive the RSP if the 30% revenue drop test is met both across the group and at the individual entity level. The $21,500 cap on payments will apply across each individual qualifying member. However, each entity must be a separate legal entity, branches within a single business will still remain restricted to a total payment of $21,500.

It is worth noting that the RSP is subject to GST therefore GST registered businesses will need to return 3/23rds of the payment to Inland Revenue. However, input tax credits can then be claimed when the RSP is spent.

The RSP is administered by Inland Revenue and at this stage applications can be made in relation to the 23 June – 29 June increased Alert Level from 8am 1 July. Applications will remain open for one month.

The RSP is administered by Inland Revenue and at this stage applications can be made in relation to the 23 June – 29 June increased Alert Level from 8am 1 July. Applications will remain open for one month.

Recipients of the RSP should expect to have their name listed on a public register as has occurred with previous wage subsidies. Applications are required to maintain a full set of documentation supporting their eligibility to make a claim.

Applications for the RSP are made via myIR on the Inland Revenue website.

What is available at all COVID-19 Alert Levels

Businesses are able to utilise the Leave Support Scheme when an employee cannot work from home are required to self-isolate for one of a number of reasons:

- They are sick with COVID-19 and must self-isolate until a doctor tells them they can leave isolation
- They are identified as someone who is a "close contact" of someone who has COVID-19 and have been told to self-isolate for a period by a health official through the National Contact Tracing process (casual and secondary contacts are not covered)
- They are the parent or caregiver of a dependant who has been told to self-isolate for a period by a doctor or health official through the National Contact Tracing process and the dependant needs support to do so safely
- They have been directed to self-isolate, or are the parent or caregiver of a dependant who has been directed to self-isolate, by a Medical Officer of Health in accordance with the Health Act 1956
- They are considered 'higher risk' if they contract COVID-19 and a doctor has told them to self-isolate while there's active community transmission, or
- They have household members who are considered 'higher risk' if they contract COVID-19 and a medical practitioner has told them to self-isolate, to reduce the risk of transmitting the virus to vulnerable household members.

The Leave Support Scheme provides a fortnightly payment of $1,171.60 or $700 respectively for a full-time or part-time employee who is isolating.

Earlier this year the Leave Support Scheme was supplemented by the Short-Term Absence Payment (STAP). This payment of $350 per eligible employee is available to support employees who are required to stay at home while they await the results of a COVID-19 test but are unable to work from home. The payment also applies to parents or caregivers who have dependents awaiting a test result, as well as self-employed workers.

The STAP will be of most assistance for those employees who have used their sick leave entitlements. Employers can apply for the STAP once in any thirty-day period per eligible worker (unless a health official or medical practitioner advises or requires the worker to re-test during that period). If the employee subsequently tests positive, they will be eligible for the Leave Support Scheme.

Businesses with 50 or fewer employees can be eligible to apply for a Small Business Cashflow Loan. This scheme, administered by Inland Revenue, allows certain businesses to apply for a loan of up to $100,000. The maximum value of the loan available is $10,000 plus $1,800 per full time equivalent employee. Loans are interest free for a period of up to two years (if fully repaid in that time).

If you have any questions in relation to the issues discussed above, please consult your usual Deloitte advisor.

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Property Tax Consultation Launched

By Robyn Walker, Annalie Hampton, Susan Wynne, Hiran Patel, Jess Wheeler

Following on from the surprise announcements on 23 March 2021 that there would be a material change to the taxation of residential properties, in June the Government has released further detail about those proposals. This came in the form of a 143 page Government Discussion Document; which was supplemented by a range of fact sheets, which break down the proposals into more digestible chunks:

- Changes to interest deductibility
- Who is affected by the interest deductibility changes?
- What type of properties are affected by changes to interest deductibility?
- The treatment of new builds under the bright-line test and changes to interest deductibility
- The development exemption
- Should interest deductions be allowed when property is sold?
- Changes to the bright-line test

The overarching purpose of the changes are to help achieve the Government's goals around housing affordability:

"The Government's goal is to encourage more sustainable house prices, by dampening investor demand for existing housing stock to improve affordability for first-home buyers. … The proposal to exempt property development and new builds should help boost supply by

Refresher: What are the proposals?

- The bright-line test has been changed from 5 years to 10 years for property subject to a binding agreement dated on or after 27 March 2021. An exclusion applies for "new builds", which will remain subject to a 5 year bright-line test.
- Interest deductions on residential property acquired on or after 27 March 2021 will not be allowed from 1 October 2021. Interest on loans for properties acquired before 27 March 2021 can still be claimed as an expense, but the interest deductions will be phased out from 1 October 2021*. An exclusion from the new interest denial will apply for "new builds".
- If money is borrowed on or after 27 March 2021 to maintain or improve property acquired before 27 March 2021, it will be immediately non-deductible from 1 October 2021 rather than subject to the phase out rule.
- Property developers should not be affected by these changes and will still be able to claim interest as an expense.
- A "new build" is a self-contained dwelling which has received a code of compliance certificate (CCC) on or after 27 March 2021.

*Interest phase out rule: For property acquired before 27 March 2021, the ability to deduct interest will be phased out over a four-year period, starting from 1 October 2021.

Income year (for standard balance date)	Percent of interest you can claim
1 April 2021 – 31 March 2022 (transitional year)	1 April 2021 to 30 September 2021 – 100% 1 October 2021 to 31 March 2022 – 75%
1 April 2022 – 31 March 2023	75%
1 April 2023 – 31 March 2024	50%
1 April 2024 – 31 March 2025	25%
1 April 2025 onwards	0%

channelling investment towards increasing housing stock and away from direct competition with first home buyers and owner-occupiers for existing housing stock."

What the documents released highlight is that there can be a high level of complexity when it comes to implementing something which may sound conceptually simple. In some cases the outcomes for taxpayers will be clear, but in others it's not so clear cut. The Discussion Document seeks to identify some of the tricker scenarios and explain how the proposals could apply.

Some key parts of the document include:

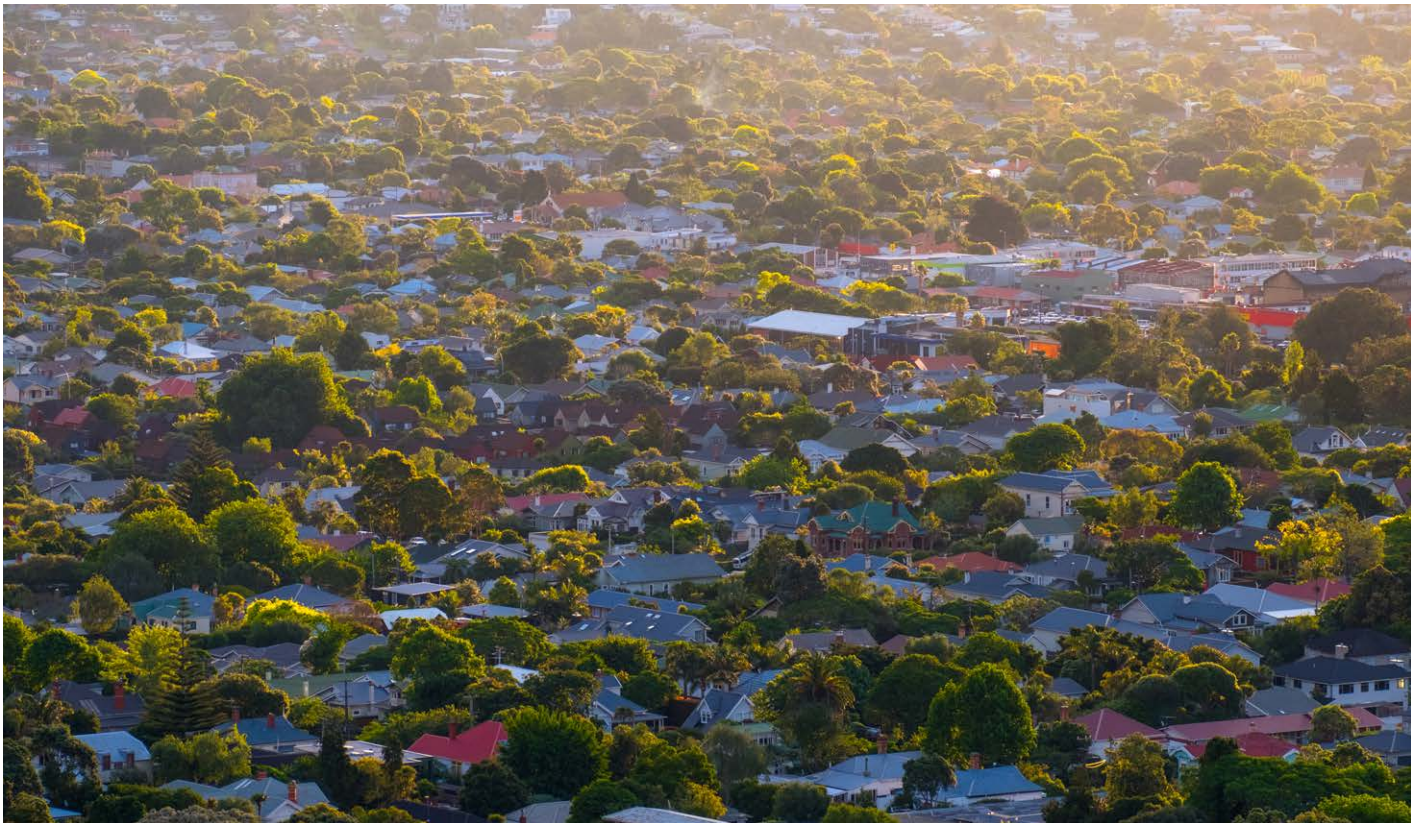
- ***What property should be subject to the rules?*** Exclusions are provided for a range of scenarios where property is not negatively impacting on the ability of an owner-occupier to acquire a house, for example, land outside New Zealand, employee accommodation, farmland, care facilities, rest homes and retirement villages.
- ***Who should be subject to the rules?*** It's proposed that all taxpayer types (e.g. individuals, companies, trusts, partnerships) will be in the rules, but when it comes to companies only "close companies" and "residential investment property rich" companies will be subject to the rules. The exclusion for non-close companies means that many listed companies which might own a few properties as an incidental part of their business don't need to trace and allocate interest to a (comparatively) small asset. Ensuring "residential investment property rich" companies are still subject to the rules is to prevent an incentive for landlords to pool their properties in a single widely held vehicle in order to get deductions. A company will be residential investment property rich if 50% of assets (by value) are residential property.
- ***If a taxpayer has a mixture of property types, how do they figure out what debt funding relates to residential property versus non-residential property?*** It will be necessary for taxpayers to trace their funding arrangements to each purpose and allocate interest appropriately.
- ***What happens if a property owner refinances debt, is this considered new borrowing?*** It should be possible to refinance borrowings for pre-27 March 2021 property, however this should be done with a degree of caution to avoid inadvertently resulting in debt becoming non-deductible. In principle, provided the refinanced debt is equal to or less than the previous debt level it should remain deductible (subject to the phase out rule); to the extent debt exceeds the debt level at 26 March 2021 interest will be non-deductible from 1 October 2021.
- ***If property developers can continue to claim interest deductions, who is a property developer?*** The Discussion Document works through this, however in many instances, the output for a property developer will be a "new build", which interest is deductible against.
- ***So what is a new build?*** The Discussion Document is fairly generous in allowing more than what you might first anticipate. Renovating an existing property to turn it into more dwellings may count, as will an existing home which has been relocated to a new section, and consideration is being given to also including substantial renovations which take an existing uninhabitable building back up to standard to be lived in. All these scenarios arguably add to New Zealand's housing stock.
- Given the extension of the bright-line test to ten years, it is also proposed to reform the rules to allow taxpayers to restructure their affairs without triggering the bright-line, provided there is no significant change to the overall economic ownership.

In mid-June we held a webinar to talk through these changes. As you might expect, given the breadth of properties and taxpayers impacted by these changes there were a lot of questions asked. Here we summarise some of the main questions and answers; noting of course, the answers provided are based on proposals only and are subject to change. Anyone wanting to know how the rules apply to their own situation should seek professional advice.

What the rules apply to:

- ***Are boarding houses in or out of the rules? They could be used for long term accommodation but have shared services, kitchen, laundry etc, they are quite similar to student accommodation.*** A boarding house is likely to be treated similarly to a hotel or hostel and should be excluded from the rules - but it could be worth submitting to clarify this and to support these properties being exempted; particularly where they are used for short-term accommodation.

The Government's goal is to encourage more sustainable house prices, by dampening investor demand for existing housing stock to improve affordability for first-home buyers



- ***If an owner-occupier rents out rooms (e.g. to flatmates or borders) does that count as residential rental or other rental income?***
  Flatmate situations should be exempt from the rules. The rationale for this is that the Government doesn't want to discourage people from taking on flatmates (and therefore adding to housing supply issues) - this is covered at para 2.52 of the discussion document
- ***Do the interest limitation rules apply to farm houses which are rented out?***
  Farmland is excluded from the rules and interest should be able to be claimed.
- ***Is farmland defined? If a large farmland property gets rezoned residential is it Farmland or Residential land for deduction purposes?***
  The rules are not intended to apply to farmland, and this is a defined term. Generally anything which is 'farmland' is excluded from being residential land for tax purposes.

  Farmland means land that—

a. is being worked in the farming or agricultural business of the land's owner:
b. because of its area and nature, is capable of being worked as a farming or agricultural business

- ***Is a home office exempt from or subject to the denial of interest?***
  The expectation is that interest should still be able to be factored in as a potential deductible cost of a home office (assuming you are running a business from home and are not working from home as an employee).
- ***How does a holiday house (say owned by a family trust) fall for interest deductions if it is not rented out?***
  If this is a private asset you cannot claim interest deductions under the existing rules.

What is a "new build"?

- ***Is a property with a CCC in December 2020 a "new build"?***
  There is a transitional rule which may allow this to be treated as a new build, but only if the property is acquired on or after 27 March 2021 (and within twelve months of receiving CCC).
- ***Are there any exemptions considered for any property owners that have owned a rental property from when it was new? E.g. if the 27th March 2021 date was earlier, they would have been able to deduct their interest costs.***
  Unfortunately not, the rules only consider "new builds" acquired on or after 27 March 2021 as being eligible for interest deductions. As mentioned above, there is a transitional rule proposed which will allow some properties which received a CCC within the 12 months prior to 27 March 2021 to be treated as "new builds", provided that the property is acquired on or after 27 March 2021.

Different business types:

- ***If 5 friends get together and make a company (so it won't be a close company), then rent out property can the company claim full deduction for interest?***
  A "close company" is a company where five or fewer natural persons or trustees directly or indirectly hold more than 50 per cent of the company, so you may need more than 5 friends to form a company. However, even if a company is not a close company, if it is "residential investment property rich" (50% percent or more of the assets are residential property) these rules will still apply.

- ***What's the best ownership structure?***
  Ultimately this comes down to what is best for your own facts and circumstances. Other than non-close companies which are non-residential investment property rich there no exclusions for any other types of entities.
- ***Are Māori Authorities subject to the interest limitation rules?***
  Taxpayers will be impacted by these rules regardless of whether they are investing as an individual, through a trust, partnership, limited partnership or a close company. Only, non-close companies (e.g. widely held / listed companies) will be excluded from the rules provided they are not "residential investment property rich". As a result, Māori Authorities will be subject to the interest limitation. The discussion document notes that the Government does not propose to exclude other entities from the interest limitation rule, but submitters are asked if there are other organisations that should not be subject to the interest limitation proposal and if so to provide details.
- ***If rental income from Māori land is not derived through a registered charity then will that Māori land be affected by the proposed interest limitation rules?***
  Māori land may be affected by the proposed interest limitation rules. The Government is considering a carve-out for Māori land and is requesting submissions on the types of structures and financing used for providing housing on Māori land.

Treatment of borrowing:

- ***Can I refinance my borrowing to a new bank?***
  Yes, you should be able to do this. Provided the new debt is equal to or less than the debt at 26 March 2021 it should not be considered "new borrowing". We recommend fully documenting all banking transactions to ensure there is a clear evidence trail around residential property debt.
- ***What's the best way to allocate debt across different assets?***
  The primary proposal under these rules is for taxpayers to trace what borrowing relates to. Any debt which can be traced to residential property will be subject to the interest limitation rules. We recommend going forward that separate loans are taken out for separate assets & purposes to make this process simpler.
- ***How is borrowing treated if it is to make improvement to an existing property? For example, substantial renovations, a new roof, or paint job etc?***
  Interest will be denied regardless of whether it is for the capital cost or ongoing operating and maintenance costs.
  If you are treated as a property developer for the purposes of making the improvements (i.e. the improvements make a building habitable or extends the life of a building) then interest may be deductible for any additional debt acquired for the development activity. The interest exemption would only apply in this case until the improvements are completed.
- ***Is a foreign currency loan (from offshore bank) on a non-New Zealand residential property caught by these changes?***
  No, foreign properties are excluded from these interest proposals. However, all other existing rules (e.g. the bright-line test, residential ring-fencing, and financial arrangement rules) apply to all property owned by a New Zealand tax resident regardless of where in the world it is.
- ***I have a mortgage free commercial building, also I have 100% mortgaged residential building. Both buildings are owned by the same family trust. Can I refinance and move the loan to the commercial building? Both buildings values are relatively similar.***
  The proposals will allow people to refinance in a commercial way. However, the discussion document does not provide any commentary as to whether Inland Revenue would consider refinancing to move debt from residential property to other property to be 'tax avoidance'. This is something taxpayers should consider on a case-by-case basis; for example, Inland Revenue may consider it more reasonable to have each property 50% debt financed.
- ***If we refinance the existing loan on a rental property that was already in place prior to 27 March 2021, up to the total value of the original loan, we can deduct the increased interest over the phase out period. But we cannot refinance to above the original loan amount?***
  You can refinance up to the amount of borrowing at 26 March 2021, any borrowing in excess of this amount should be "new borrowing".

The bright-line test:

- ***If a property held by a trust is rented as an investment property for say 3 years and then is moved into by the trust beneficiary as a family home, so no longer an investment property, would this change of use generate a notional taxable gain under the bright-line test even though no actual sale has taken place?***
  No, provided you have not sold the property there should be no need to consider the bright-line test. Depending on whether the property is acquired pre or post 27 March 2021, this scenario will impact on the application of the main home exemption if the property is in fact sold at a later date. If acquired post 27 March 2021, apportionment may be required for the main home exemption if the property is subject to the bright-line test on an eventual sale.
- ***How do I help my kids?***
  The discussion document acknowledges that the bright-line test can impact on parents and children who jointly buy property together (for example the parent's name is required on the mortgage to secure the lending and at some point the property is transferred to the child as a gift or at cost). These types of transactions are not being dealt with as part of the discussion document. It is noted that the Government is interested in undertaking work in this area at a later date.

- ***Rollover relief from the bright line test is proposed for trustees of a trust, will this also apply to a Māori Authority that is a company?***
  While it is proposed that broader "rollover relief" is provided for transactions which might otherwise trigger the application of the bright-line test or change interest deductibility, at this stage the rollover relief would only apply to Māori Authorities that are trustees and not to companies. The discussion document acknowledges that this may be too narrow for the way Māori Authorities are typically set up and used. As a result this is an area that Officials have raised a number of questions and are seeking feedback.

Other:

- ***Have the opposition parties given their policy position about these new property rules?***
  Both the National Party and ACT Party have said they will repeal these rules.

Where to from here?

Submissions on the proposals are open until 12 July 2021. Given that interest deductions will begin to be disallowed from 1 October, it is not feasible for submissions to be considered and then legislation drafted and enacted before that date. What we expect to occur is that final design decisions and draft legislation will be made available prior to 1 October. The legislation will be added to a taxation bill and go through standard parliamentary processes, including a select committee process. The legislation is likely to be enacted in late March 2022 and have retrospective effect.

Submissions on the proposals are open until 12 July 2021. We expect that final design decisions and draft legislation will be made available prior to 1 October 2021.

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Practical guidance on the purchase price allocation rule

By Emma Marr

If you are buying or selling business assets you will need to become familiar with new tax rules about allocating asset purchase prices, which took effect from 1 July 2021. The aim of rules is to stop taxpayers allocating asset values in a way that gives them a more favourable tax outcome when buying and selling assets. The rules do this by incentivising parties to a transaction to agree values and follow these in tax returns. Many in the tax community felt that the rules were possibly a solution looking for a problem, but they're here now, and anyone buying or selling assets needs to understand them.

There are incentives for vendors and purchasers of property to set prices that create better tax outcomes. Paying more for a depreciable asset makes sense for a purchaser, selling the same asset for less makes sense for the vendor. However, in an arm's-length sale the parties have competing interests and can be expected to settle on supportable market values. If they don't there were various solutions in legislation to enable prices to be re-set. Nevertheless, a specific code now exists for setting consistent asset purchase prices.

Affected transactions

The rules apply to agreements entered into on or after 1 July 2021, if the sale is a 'mixed supply' of certain types of property. That means it involves two or more of following categories:

a. trading stock, other than timber or a right to take timber:

b. timber or a right to take timber:

c. depreciable property, other than buildings:

d. buildings that are depreciable property:

e. financial arrangements:

f. purchased property for which the disposal does not give rise to assessable income for the vendor, or deductions for the purchaser.

This ensures the rules encompass agreements to sell what might be viewed as a single asset, for example commercial property that comprises both a building and depreciable fit-out, as well as residential property that includes depreciable chattels (subject to some exclusions around value, as outlined below).

What happens when the parties agree the PPA?

The recommended path is for both parties to agree the purchase price allocation (**PPA**) in writing, before they file the tax returns in which they take a tax position on the purchased property, and then for both parties to follow that PPA in their tax returns. If that happens, the property will

be treated as being sold and bought for that price (subject to the Commissioner disagreeing, which we comment on below).

The sale and purchase agreement does not necessarily have to record the final sale price and asset value allocations, but if it doesn't it should specify the mechanism for that price to be set (eg, a independent valuation), and the timeframe for that to happen. The price has to be agreed in writing before the earliest day on which either party files the tax return in which they take a tax position on the purchased property.

Although the Commissioner can still re-set an agreed PPA, she won't intervene to change the PPA for depreciable property that initially cost less than $10k, if the total allocated to that class of property is less than $1m, and the amount allocated isn't more than original cost, or less than tax book value.

What happens when the parties don't agree the PPA?

This is where it gets interesting. Before getting into the rules, however, it should be noted that they don't apply to property worth less than $1m, or $7.5m for residential property (land and chattels).

If the parties don't agree on a PPA in writing before one of the parties takes a tax position on the purchased property, the vendor has the first right to decide on the PPA. The vendor has to notify the Commissioner of Inland Revenue, and the Purchaser, within three months of the sale date. The price allocated to assets (a) to (e) in the list above must be the greater of market value and tax book value. Any excess is allocated to the final category, property on capital account, and if any is leftover it is allocated pro-rata to the other assets.

If the vendor doesn't notify the purchaser that they have completed a PPA within three months of the date of sale, the purchaser can complete it within six months of the date of sale. This PPA must reflect the market values of the purchased property.

If both the purchaser and the vendor fail to do a PPA within the specified time-frames, the Commissioner can do the PPA herself, at market value. Although it seems a remote possibility, it's unclear whether the Commissioner can or should do a PPA until those time limits have expired. The parties can still agree between themselves until such time as one of the parties files a tax return, so it would seem premature for the Commissioner to do so. The same de-minimus exclusions apply as outlined above – there will be no PPA for depreciable property that initially cost less than $10k, if the total allocated to that class of property is less than $1m, and the amount allocated isn't more than original cost, or less than tax book value.

No deduction can be taken by the purchaser until a PPA has been completed by someone, even if that is the Commissioner. If that happens after the year of sale, this means the deductions cannot be taken until that later date.

Commissioners' override & guidance on the new rules

It's important to note that the Commissioner has an overriding ability to allocate the purchase price based on market value, whether there is an agreement or not. It's not clear yet how or when that ability would be exercised. The guidance Inland Revenue has published on its website on the new PPA rules states:

"If we find that the buyer and seller did not allocate the sale price in reasonably the same way in their income tax

While it's understandable that the Commissioner would expect the parties to use the same PPA, the circumstances in which the Commissioner would determine that a PPA (particularly one agreed between arm's-length parties) doesn't reflect market values are more elusive.

returns, or did not allocate it in line with market values or tax book values where required, then we are likely to:

- investigate the sale
- set our own allocation for tax purposes
- reassess any incorrect GST or income tax returns (whichever applies)"

While it's understandable that the Commissioner would expect the parties to use the same PPA, the circumstances in which the Commissioner would determine that a PPA (particularly one agreed between arm's-length parties) doesn't reflect market values are more elusive.

More detailed guidance on the rules is available in the special report released in April 2021, and a Tax Information Bulletin article will be published in due course, likely largely reflecting the special report. It would be useful if future guidance could provide more commentary around the criteria for substituting an agreed PPA, particularly between arm's length parties. If the circumstances will be fairly limited, it would be helpful for the guidance to confirm that.

Documenting the transaction & notifying the Commissioner

ADLS/REINZ have issued an addendum to the standard form real estate and business sale and purchase agreement, to allow parties to deal with a PPA under the new rules. This should act as a prompt for parties to affected transactions to consider the rules and document the PPA. We are already seeing parties adapting asset sale and purchase agreements to make PPAs clear, and to provide that both parties will comply with the new legislation, and will file their returns in accordance with the agreed PPA. Agreements should also anticipate and provide for the possibility that the Commissioner may investigate and potentially alter an agreed PPA.

Inland Revenue have outlined how the PPA is to be notified to them (which is only required when the parties have not agreed the PPA between them). The notification is to be provided either in writing or via myIR, and should provide details about both parties, the property sale agreement, the price allocation, and a statement that the PPA has been made in accordance with the legislation.

Comments

The PPA rules give the vendor disproportionate negotiating power. If the parties cannot agree the PPA, the vendor can decide unilaterally how to allocate the price, within some limits. The incentives for a purchaser to obtain agreement up front are real, but do not necessarily reflect commercial reality. Parties should ensure that any agreement to determine the PPA after settlement is clearly agreed, including any dispute procedures.

It has always been best practice for parties to agree asset valuations upfront but from time to time this doesn't happen and transactions are entered into without considering tax. While it is positive that standard form agreements are being updated, these are not exclusively used. Businesses should be ensuring that there are good governance processes in place to ensure that transactions are not entered into without considering the tax outcomes.

Please get in touch with your usual Deloitte advisor if you would like to discuss how to incorporate a PPA into an agreement for sale or purchase of an asset.

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Volatility in price of Bitcoin raises tax questions

By Ian Fay & Allan Bullot

Bitcoin is back in the news. Whether it is high profile twitter users helping drive up the market and then doing an about turn, or Wall Street heavyweights investing, Bitcoin has been making headlines (again).

The tax treatment of crypto assets first became a hot issue in 2016 when the price of Bitcoin rose from US$500 to US$1,200 and continued to climb strongly to almost US$20,000 by the end of 2017. But the price then dropped to a low of US$3,300 by the end of 2018. By the end of 2020, the price was on the up again, first breaking through US$20,000 and then rising to over US$60,000 by April, only to dramatically fall below US$25,000.

The renewed interest in crypto coupled with the large swings in prices has increased the number of tax questions. So here are a few we have been asked in the last couple of months.

Are there special rules dealing with the tax treatment of crypto?

No. Existing tax rules apply to transactions involving crypto assets in the same way that they apply to other transactions. Leaving aside GST for now, New Zealand's income tax system already has the framework to deal with crypto. The issue is working out which set of rules applies.

In simple terms, crypto assets are rights embedded in the "blockchain", i.e. a distributed ledger technology. The rights can take several different forms - for example, the ownership of a block (or fraction of a block) on the ledger may give the owner the right to sell or transfer the block to someone else. The value of the block is what someone else will pay for it. For this kind of asset, tax rules treat it as personal property and the rules that apply to personal property can be used, such as if the block was acquired for the dominant purpose of disposal, any disposal proceeds (whether fiat currency or a different kind of crypto asset) will be taxable.

There are thousands of different types of crypto assets, each with their own particular features and properties. For example, some can be used to evidence contracts, some can be exchanged for goods or services, some have properties similar to shares or bonds, and some represent or are backed by other assets such as gold or fiat currencies. In order to determine the tax treatment, it is necessary to analyse the rights and classify the crypto asset as (for example) a financial arrangement or an excepted financial arrangement. Once classified, the tax rules may then tax unrealised gains or only tax realised gains, with a deduction for costs.

In some cases, crypto assets may be personal property that is held on capital

account, such that gains on disposal are not taxable. However, this depends on the holder's reasons for acquisition and their other activities, rather than being a feature of a particular crypto asset, i.e. one person may have a non-taxable capital gain on disposal but another would be taxable.

Has Inland Revenue provided any guidance on how crypto should be taxed?

Inland Revenue has released various guidance on the tax treatment of crypto assets. We commented on the guidance released on the website in our November 2020 Tax Alert.

There is also some more detailed public rulings covering providing crypto assets to employees – such as in the statement "Providing cryptoassets to employees". Inland Revenue has also issued new guidance on the more technical issues around hard forks and airdrops, which we covered in our February 2021 Tax Alert.

Why does Inland Revenue think crypto is like gold?

There are a number of similarities between gold and Bitcoin. For example, both are mined and neither generate income.

Inland Revenue published "Are proceeds from the sale of gold bullion income?" in September 2017, and reference this in relation to crypto assets. As noted in the summary, "some of the issues discussed are particularly relevant to the disposal of non-income producing assets."

The guidance states: "In the case of gold bullion, the Commissioner considers that [consideration of the nature of the asset] is particularly [important], as bullion does not provide annual returns or income while it is held, nor does it confer other benefits (which other investments that do not provide income while held might). The Commissioner therefore considers that, for gold bullion, the nature of the asset is a factor that strongly indicates that it was acquired for the dominant purpose of ultimately disposing of it."

In other words, Inland Revenue expects that in most cases, the proceeds from the disposal of gold bullion will be taxable.

Given the similarities that can be drawn between gold and Bitcoin, it is not surprising that Inland Revenue liken Bitcoin to gold, and therefore expect that in almost all cases, disposal of Bitcoin gives rise to taxable income.

I've lost half my investment, so can I get a tax deduction for my loss?

Given the recent fall in value of Bitcoin, and that Inland Revenue want to tax gains, what happens for losses? That depends on when you acquired the Bitcoin.

For example, if you acquired some Bitcoin for $1,000 and value increased to $80,000 but is now worth $30,000, if you sell the Bitcoin the gain of $29,000 is taxable. You may think you have lost $50,000, but as tax only applies at disposal, and you were not taxed on the growth from $1,000 to $80,000, you are only entitled to a deduction for the original cost. However, if you bought the Bitcoin for $80,000 and sold for $30,000, then the loss of $50,000 is likely to be deductible.

Can I pay my staff with crypto so they aren't taxed?

Generally, no.

As mentioned above, Inland Revenue has released a number of public rulings dealing with providing crypto assets to staff. In most cases, for example if staff agree to be paid in crypto, PAYE needs to be deducted.

However, where crypto assets are issued by the employer and provided to the staff, PAYE should not apply. This doesn't mean that the arrangement is tax free - it just shifts the tax obligation to the employer under the FBT rules.

My crypto token forked and I received airdrops. I haven't got any income, have I?

Inland Revenue issued an issues paper on this issue last year, which we covered in our February 2021 Tax Alert. Last month, Inland Revenue published the following guidance - "Income tax – tax treatment of cryptoassets received from a hard fork" and "Income tax – tax treatment of cryptoassets received from an airdrop".

In short, whether a hard fork or airdrop is taxable will depend on whether the person carries on a crypto asset business. However, even if the hard fork or airdrop is not taxable, the proceeds from disposal of the crypto assets received from the hard fork or airdrop will, in most cases, be taxable.

Crypto currency is just another currency, so exempt from GST?

Currently crypto currency does not generally fall under the definition of money for GST purposes, meaning that supplies of crypto currency made in the course of carrying on a taxable activity can potentially be subject to GST. This can cause a number of issues. We understand that changes to the GST legislation will be introduced in the next tax bill in a couple of months to clarify a number of issues, so expect more on these shortly.

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Tipping point: Business leaders embrace a new role for the tax function

By Annamaria Maclean and Jodee Webb

While 2020 was the year that turned business and society on its head, 2021 brings the opportunity to reshape them for the future.

Governments have big decisions to make about how they address mountainous deficits, how they build more sustainable economies, and the future of globalization.

Meanwhile, companies are positioning themselves to thrive post-pandemic: shoring up their finances, accelerating digital and sustainable transformation, embedding new ways of working, and identifying new growth opportunities.

The tax function sits at the interface between companies and governments as these decisions play out, and its strategic insight will be more in demand than ever before. For instance, as companies change their business models for the digital era or invest in green initiatives, failing to understand the tax implications—in areas where the rules are still nascent and evolving— may leave significant value on the table, or worse still, undermine the success of the new strategy.

As businesses map out their growth plans for the recovery, they will need to call on forecasting and scenario modelling capabilities often found in tax teams, to get a deeper understanding of financial resilience. All of this creates a new business partnering and collaboration imperative for company tax functions.

The C-suite can no longer afford for their tax teams to be consumed by routine compliance and reporting activity. For tax to truly deliver on its new mission, businesses need to reset the boundaries of the primary remit of the tax function, free up resources, and transform its technology infrastructure. The good news for tax and business leaders is that the tools to achieve this are increasingly at their disposal.

Deloitte recently launched the results of its global Tax Transformation Trends survey. This survey involved interviewing more than 300 tax and finance executives globally. This survey engaged tax and finance executives at multinational companies to understand their strategies for tax operations, talent and technology.

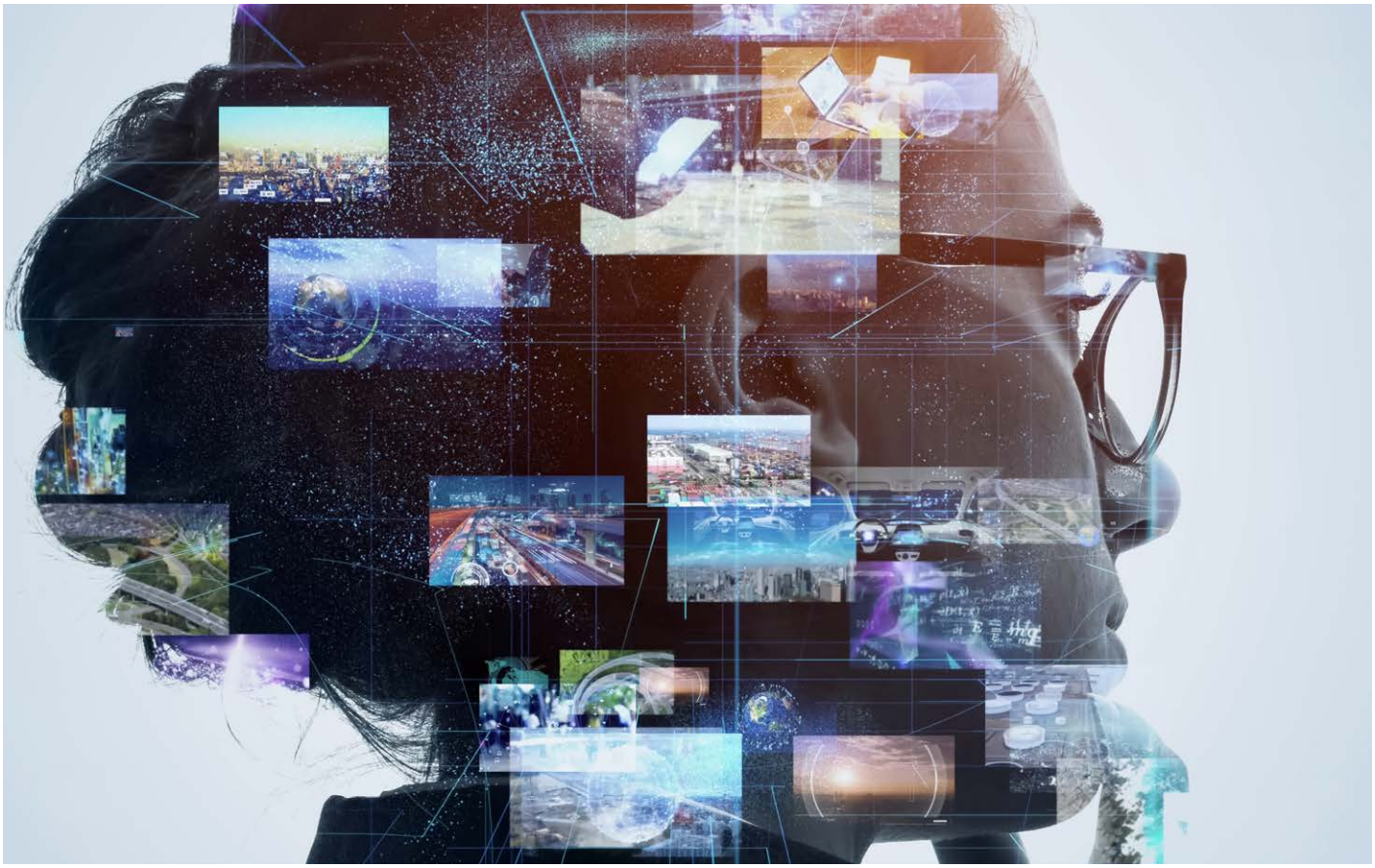
In particular, asking the following questions on the future of the tax function:

- What should be the future role of a tax team? How is its core focus changing?
- What are the operational changes that will pave the way for tax to add more value as a business partner?
- How can tax leaders accelerate the transformation journey?

Six key insights emerged from the findings:

1. **Urgency to transform resourcing models is greater than ever**. 93% of tax leaders say their budget is remaining flat or falling, while business partnering demands between tax and finance leaders and their business counterparts are on the rise.
2. **The strategic value of tax must be realised faster as companies accelerate business model transformation**. 65% of tax leaders say the shift to digital business models is a key area where the business needs its guidance.
3. **The race is on to get ahead of fast-evolving digital administration trends in tax authorities**. 92% of survey respondents say transformative changes to the way companies are being required (electronic filing, real-time reporting, etc.) to provide tax information to revenue authorities is also creating an imperative to modernise at a faster pace. These tax and finance leaders say that shifting revenue authority demands on digital tax administration will have a moderate or high impact on tax operations and resources over the next five years- and leaders say the trend is moving faster than expected.
4. **Tax leaders are prioritizing data simplification and lower-cost resourcing as a foundation for the future vision**. Simplifying data management (53%) and moving to l ower-cost resourcing models (51%) are the priority strategies as tax redefines its role.
5. **CFOs are beating the outsourcing drum the loudest**. 44% of C-level respondents (two-thirds were CFOs) think outsourcing is the most important strategy for lower-cost resourcing models, ahead of automation (39%) or shared service centers (31%). The survey shows a gap between the strategies the C-suite see as most important and those Tax leaders, who favor shifting work to other parts of the business, see as most important.
6. **Those already on their transformation journey are already seen to be adding strategic value**. Where tax teams have introduced next generation enterprise resource planning (ERP) systems, 56% are seen as highly effective at supporting the business with scenario-modelling insights, compared to 35% of others.

All of this creates a new business teaming and collaboration imperative for company tax functions.



"The C-suite can no longer afford for their tax teams to be consumed by routine compliance and reporting activities. To truly deliver value to the business, the tax function needs to rethink its resourcing model and transform its technology infrastructure to create capacity and control costs. The good news is that tax and business leaders have more options at their disposal to achieve this"

Phil Mills, Deloitte Global Tax & Legal Leader.

The detailed results are contained in a 3-part series of reports. Tax Operations in Focus ,the first report in the series, reveals tax leaders are increasingly being sought out for strategic counsel as companies accelerate business model transformation. In this report, Deloitte discusses with leaders the fast-moving trends that are driving businesses to shift where and how the tax function adds value, understand their future vision, and how they plan to get there.

To start the process, organisations can undertake an initial assessment of the current state of their tax function. To help you develop an initial assessment or benchmark we can use Tax Cube, a risk assessment diagnostics tool. The Tax Cube is a comprehensive set of questions based on best practice in the area of tax risk management and is completed in a half day workshop with your tax / finance team and other key stakeholders.

The results of the workshop are summarised in a heat map which will then enable you to identify priorities for change and clear actions to take forward.

If you would like to discuss the findings of the survey, tax function resourcing solutions for current and future needs or are interested in running a Tax Cube diagnostic workshop, then please get in touch.

If you are reporting under the GRI Standards, developed for sustainability reporting, you may be adopting GRI 207: Tax 2019, a global standard for public reporting on tax, for the first time. GRI 207 came into effect for reports or other materials published on or after 1 January 2021. If you would like assistance in implementing your reporting of this standard, please get in touch.

The Tax Cube

	General tax management	Income tax	GST	Employment taxes	Customs & excise	Other taxes
Governance	78%	34%	56%	33%	31%	34%
People	56%	45%	33%	55%	66%	54%
Process	81%	68%	81%	71%	80%	80%
Data & Systems	63%	40%	76%	38%	73%	62%
Technology	77%	33%	62%	34%	54%	62%

High priority risk
Medium priority risk
Low priority risk

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Progress towards a multilateral solution in international taxation

By Jeremy Beckham

In 2019 the New Zealand Government set out a framework for a digital services tax (DST) in addition to an outline of the measures being progressed through the G20/OECD Inclusive Framework (a collection of 135+ countries) for reform of the international tax framework. Since that time, the Government has maintained that its preferred approach is to work within the Inclusive Framework to find a multilateral solution for reform. That said, the Government has also reiterated on a number of occasions that a DST is not off the cards and they stand ready to implement one in the event the Inclusive Framework project fails to reach agreement within a reasonable timeframe. Given this background, it is very welcome news that on 5 June 2021 the G7 finance ministers published a communiqué expressing support for efforts underway through the Inclusive Framework and setting out high-level political agreement on global tax reform.

In October 2020, the Inclusive Framework released two detailed "blueprints" on potential rules for addressing nexus and profit allocation challenges ("Pillar One") and for global minimum tax rules ("Pillar Two"). Those proposals were updated and simplified by the Biden Administration in April 2021 and formed the basis for the political discussions by the G7. Some of the key design features agreed to in the one paragraph of the communiqué dedicated to the tax changes are noted as follows:

- The Pillar One approach puts the "largest and most profitable multinational enterprises" in scope of so-called "Amount A". This mirrors language in a widely circulated presentation made by the US Treasury which explained the goal is to shrink the pool of multinationals to no more than 100 companies. The exact thresholds have yet to be agreed, however this would appear to be a move away from the original scope of the blueprint which included only "automated digital services" and "consumer facing" business.
- There is some agreement of the "Amount A" formula in the Pillar One approach. The communiqué requires sharing with market countries "at least 20%" of the profits in excess of a 10% profit margin. This establishes that the G7 sees the 20% figure as a floor, but other countries at the inclusive framework may seek to raise this percentage.
- There is some agreement of the global minimum tax rate in the Pillar Two approach. The communiqué provides that the G7 finance ministers commit to a global minimum tax of at least 15% on a country by country basis.

Additionally, there is a commitment from the G7 to provide for appropriate coordination between the application of the new international tax rules and the removal of all DSTs and other relevant similar measures from all countries. Our detailed Deloitte commentary on what was agreed by the G7 finance ministers can be found here.

The crucial next step will be to get agreement between the G20 finance ministers in their upcoming meeting on 10-11 July. At the time of publication, the Inclusive Framework will be meeting to discuss what sort of consensus political agreement can be reached with respect to both Pillars One and Two. As such, the discussions that take place over the next few weeks may prove pivotal in reaching the OECD-led consensus based change to our international tax framework that the Inclusive Framework has now been working towards for some time (and that New Zealand as a member of the Inclusive Framework will look to follow suit and adopt). Even if a consensus is reached however we do note there is significant further technical work that needs to be undertaken to facilitate any changes agreed to, which are unlikely to be implemented before 2025 at the earliest.

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Snapshot of recent developments

Tax legislation and policy announcements

Effective dates for MLI between Malaysia and New Zealand

On 1 June 2021, the Multilateral Convention (2016) (MLI) entered into force in respect of Malaysia and the Malaysia - New Zealand Income Tax Treaty will be covered and affected by the MLI. For New Zealand and Malaysia, the MLI takes effect on 1 January 2022 with respect to taxes withheld at source on amounts paid or credited to non-residents, and on 1 December 2021 with respect to other taxes withheld at source to on amounts paid or credited to non-residents.

Early withdrawal from income equalisation scheme - Canterbury flooding

On 1 June 2021, the Minister for Rural Communities, Damien O'Connor, declared the flooding affecting the Canterbury region as a medium-scale adverse event. It is affecting those taxpayers' ability to comply with tax obligations. Inland Revenue has discretion to allow early refunds, particularly in such events, from the income equalisation scheme. All applications for an early refund must be in writing and it will take approximately 20 days for Inland Revenue to process.

Commissioner's discretion to remit interest on Canterbury Flood Event

On 8 June 2021, the Tax Administration (Canterbury Flood Event) Order 2021 ("The Order") came into force. The Order declares the Canterbury Flood Event to be an emergency event for the purpose of s 183ABA of the Tax Administration Act 1994. The Order will apply to taxpayers that are physically prevented by the Canterbury Flood Event from making a payment required by tax law by the due date. The effect is that taxpayers may ask the Commissioner to remit interest charged under Part 7 of the Tax Administration Act 1994 for failing to make payments on a due date. The Commissioner may then remit the interest if she is satisfied that it is equitable that the interest be remitted; the taxpayer asked for the relief as soon as practicable; and the taxpayer made the payment as soon as practicable. The Order expires and is revoked on 31 August 2021.

Deemed rate of return on foreign investment fund attributing interests

On 18 June 2021, the Income Tax (Deemed Rate of Return on Attributing Interests in Foreign Investment Funds, 2020-21 Income Year) Order 2021 ("The Order") came into effect. The Order sets, for the 2020–21 income year, the deemed rate of return used to calculate foreign investment fund income under the deemed rate of return calculation method set out in s EX 55 of the Income Tax Act 2007, to be 4.43% (down from 5.05% for the 2019-20 income year).

Extension of R&D tax incentive application due dates

Inland Revenue has published an update that the Minister of Revenue David Parker, has agreed with a due date extension to 31 August 2021 for year one (2019-20 income year) supplementary returns, and year two (2020-21 income year) general approvals and criteria and methodologies (CAM) approvals. The Minister will include this extension in the next tax Bill which is due to be introduced to Parliament in the second half of 2021. The intention of this extension is to give businesses more time to consider how the R&D tax incentive eligibility criteria applies to their activities and to make an application.

Inland Revenue statements and guidance

Excusing estates from filing income tax returns

On 8 June 2021, Inland Revenue released draft operational statement ED0231 - Excusing Estates from filing income tax returns. This consultation document sets out a change in the Commissioner's approach to applying the income tax return filing exemption in s 43B of the Tax Administration Act 1994 to estates. Submissions close on 7 July 2021.

Income tax treatment of accommodation provided to employees

On 10 June 2021, Inland Revenue published Operational Statement OS 21/01 - Income tax treatment of accommodation provided to employees. The Commissioner's view has remained unchanged from the draft version. This statement deals with the tax treatment of the provision of accommodation by the employer or the payment of an allowance to the employee; and reimbursement by the employer of accommodation expenditure incurred by an employee (also known as expenditure on account). The purpose of this statement is to clarify when these circumstances apply and to assist in determining the amount of tax payable.

Apportioning expenditure for motels and hotels

On 17 June 2021, Inland Revenue released draft QWBA PUB00391 - If I run a hotel, motel or boarding house and live on site, what expenditure can I claim? This consultation document states that if a person has a business of providing accommodation through a hotel, motel, boarding house, or other business premises, and live on-site, any expenses they incur relating solely to the running of their business are fully deductible. However, expenses relating to their private quarters or family life are not deductible as they are private or domestic in nature. If the expenses relate to both their private quarters and their business, they can claim a deduction to the extent that the expenses relate to the running of their business. This requires a person to calculate the portion of these mixed expenses that are attributable to their business. Submissions close on 30 July 2021.

Compulsory zero-rating of land rules for commercial leases

On 29 June 2021, Inland Revenue issued finalised QWBA QB 21/08 - GST - How do the compulsory zero rating of land rules apply to transactions involving commercial leases? The Commissioner's answer remains unchanged from the draft version and covers various factual situations, such as stand-alone lease assignments, lease assignments in the context of business asset sales and lease procurement services in the context of business asset sales.

GST public ruling on debt factoring arrangements

On 17 June 2021, Inland Revenue released Public Ruling BR Pub 21/03 - Goods and Services Tax - Debt factoring arrangements. This statement applies to the arrangement that is the sale, by a GST registered person (the Assignor), to a third party (the Factor), on a recourse or non-recourse basis, of an outstanding debt at a price less than the debt's face value. This statement considers whether a GST input tax deduction can be claimed for a bad debt write-off when a debt is factored.

Application date for depreciation of commercial buildings

On 22 June 2021, Inland Revenue issued finalised Question We've Been Asked (QWBA) QB 21/05 - The application date for the depreciation of commercial buildings. The Commissioner's answer remains unchanged from the draft version, stating that the new rules for depreciation for commercial buildings apply from the beginning of the 2020-21 income year for all taxpayers regardless of the taxpayers balance date.

Deductions for businesses disrupted by COVID-19

On 29 June 2021, Inland Revenue published finalised Interpretation Statement IS 21/04 - Income tax and GST - deductions for businesses disrupted by the COVID-19 pandemic. The Commissioner's position remains unchanged from the draft version. This statement considers whether a business can claim an income tax deduction for expenditure or loss incurred where a business has downscaled or stopped operating because of the COVID-19 pandemic. This statement also briefly considers the GST implications of these events.

Deloitte Global News Focus

Global corporate tax and withholding tax rates

Deloitte has recently published Global Corporate Tax and Withholding Tax Rates 2021 which provides corporate income tax, historic corporate income tax, and domestic withholding tax rates for close to 150 jurisdictions.

Capitalisation of Software-as-a-Service costs

A recent International Financial Reporting Interpretations Committee (IFIRIC) decision regarding the capitalisation of Software as a Service costs (SaaS) may be quite different to how many people have previously thought about the ability to capitalise costs associated with customisation of SaaS products. This could materially impact your business depending on your previous policy. The tax consequences of any change in accounting positions should be considered by taxpayers. This Deloitte Accounting Alert had further information about this change.

Remote work: Setting the right strategy

The landscape of remote work is changing rapidly as the pandemic has accelerated the future of work. For many businesses, there will be reduced importance as to where work is done and increased focus on how work is done, leveraging robotics, automation, digital capabilities, connected platforms, tools and techniques. We are seeing remote work come to life in several scenarios today, and each has different features, challenges and possible approaches. In this Deloitte Asia Pacific Dbrief, our Deloitte experts review alternative employment models and where these may or may not be attractive remote work solutions.

OECD developments

The key news updates from the OECD over the past month are as follows:

- On 17 June 2021, heads of tax crime investigation from 44 countries welcomed the launch of the second edition of Fighting Tax Crime - The Ten Global Principles. The report also presents 33 country profiles (including New Zealand), detailing countries' domestic tax crime enforcement frameworks as well as highlighting the progress made in implementing the Ten Global Principles.
- On 22 June 2021, the OECD published Model Reporting Rules for Digital Platforms: International Exchange Framework and Optional Module for Sale of Goods. Reflecting the interest of a number of jurisdictions to permit the extension of the scope of the Model Rules to the sale of goods and the rental of means of transportation, the OECD has developed an optional module allowing such jurisdictions to implement the Model Rules with an extended scope. Exchanges of information under the Model Rules are operationalised by an international legal framework in the form of the Multilateral Competent Authority Agreement.

Note: The items covered here include only those items not covered in other articles in this issue of Tax Alert.

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