

# Tax Alert

March 2022

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# Tax Governance: How do NZ taxpayers stack up against Inland Revenue's expectations and what are Inland Revenue doing next?

By Annamaria Maclean, Jodee Webb and Kirstie Anderson



Our [article](#) on tax governance in the October 2021 edition of Tax Alert highlighted Inland Revenue's renewed focus on tax governance with the launch of their 2021 tax governance campaign. This campaign included sending a questionnaire to a sample of 143 significant enterprise taxpayers on the current state of their tax governance. The results are now in – and it's clear that Inland Revenue aren't stopping there!

We caught up with the Inland Revenue International Revenue Strategy team (IRS) to hear:

- Their feedback and key findings from the first step in their campaign;
- Their next steps in terms of following up with those taxpayers that completed the questionnaire;

- How they are going to include tax governance on their annual risk review programme; and
- Their plans to send the tax governance questionnaire to a broader range of taxpayers.

To sum things up, the general impression is that New Zealand companies are falling

#### What did the questionnaire ask?

The Tax Governance Questionnaire asked 10 yes/no questions:

1. Does the company have a well-documented overarching tax strategy?
2. Does the CFO or tax manager formally confirm, at least annually, that this strategy is regularly

reviewed, updated where necessary and followed in practice?

3. Does the company have an effective tax control framework to manage day-to-day tax risks?
4. Has the operation of the tax control framework been tested independently in the last three years?
5. In the last three years, have any tax control deficiencies been identified? If yes, have any follow-up actions been taken to remediate those deficiencies?
6. Are key internal policies, procedures and controls covering the data collection, analysis, calculation, recording and reporting for tax filing and other tax compliance

requirements, documented and available for examination if required?

7. Does a review take place at least annually for changes to accounting policies upon which group financial statements are prepared and all items examined where tax treatment may differ materially from financial accounting treatment?
8. Is there a robust process in place for the finance and/or tax teams to stay on top of all relevant changes in tax law and related Inland Revenue guidance?
9. Is a process in place to identify significant transactions (including those which need to be reported to the board or relevant board sub-committees) in respect of which external advice and/or binding rulings may be required?
10. Does senior management report regularly to the board or relevant board sub-committees on potentially material tax issues or risks?

How would your business answer these questions?

short of expectations when it comes to tax governance. Taxpayers should be following Inland Revenue's lead by progressing their tax governance journey. Further planned Inland Revenue activity in this area is a call to action for most (if not all) large organisations operating in New Zealand.

**How did the questionnaire respondents stack up?**

- Overall, the responses on the existence and documentation of tax controls **fell short of expectations**, with 55% of all respondents stating that they will do more documentation work on both strategy and their tax control framework.
- While **the majority of respondents had not carried out recent independent testing** of their tax control framework, 100% those who had and who had identified deficiencies as a result, confirmed that the deficiencies had been remedied. This was pleasing to see, but the real issue lies in the level of independent testing – with less than 40% of respondents able to say that this had been done. Inland Revenue would like to see this increased.

- As a generalisation, foreign owned respondents and Big 4 clients generally had a higher level of compliance with the questions on tax strategy. However **high-level governance is still not firmly embedded among significant enterprises in NZ**, with only about 45% of respondents having a well-documented overarching tax strategy.
- Results were significantly better for the questions on the more operational aspects such as processes for staying on top of tax changes and identifying significant transactions – Inland Revenue reported that **it was pleasing to see tax control processes are well understood and practiced at an operational level, especially in relation to tax return preparation.**
- There appears to be a **good level of board reporting** on tax risk (93% of those surveyed) but **Inland Revenue would expect this to be at 100%** given it is so fundamental to managing an organisation's overall risk.
- The contextual information provided along with the questionnaires was useful to gain further insights and illustrated that a **'one size fits all'** approach to tax governance **would not be suitable.**

**What is Inland Revenue doing with this information?**

Inland Revenue has taken the following actions as a result of the questionnaire:

1. Put some questionnaire respondents on a watchlist for further action – to be followed up by 30 June 2022.
2. For respondents with deficiencies that

need addressing, further action is required and they will be followed up in the coming months.

3. Inland Revenue are planning to issue another questionnaire to another sample of taxpayers later this year.
4. All those taxpayers subject to an annual risk review will be asked specific tax governance questions as part of their annual risk review in 2022.

The majority of respondents to the questionnaire fall into the first two buckets above, so can expect follow up action from Inland Revenue in the first half of this year.

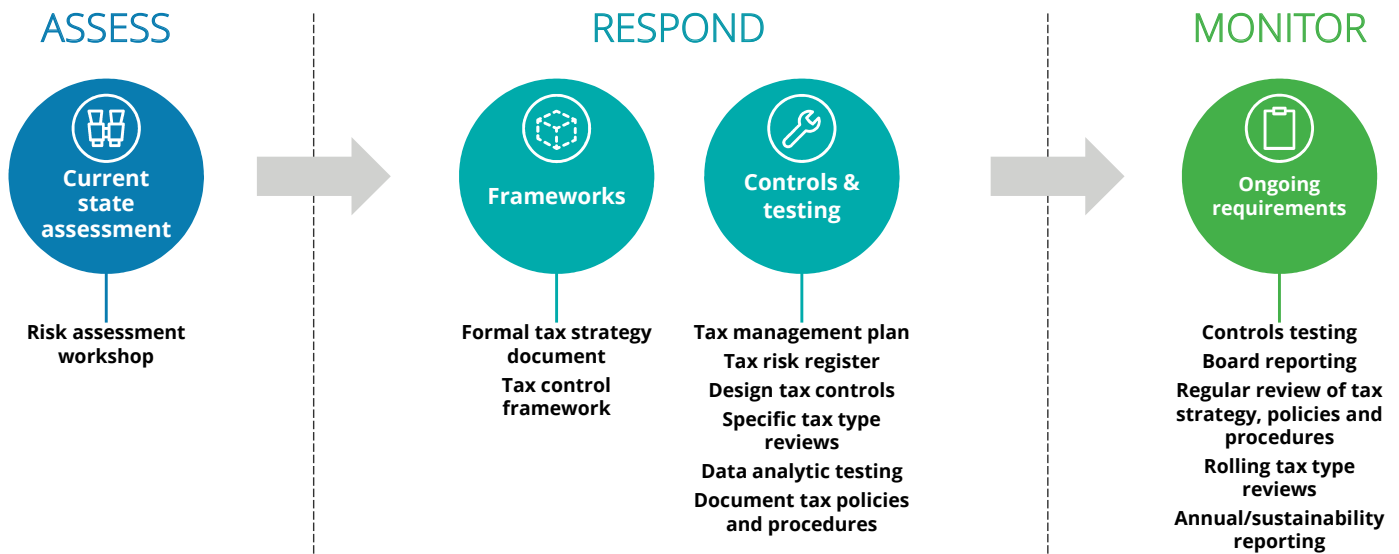
For taxpayers that weren't part of the 2021 questionnaire campaign, Inland Revenue will be running a further questionnaire towards the end of 2022 which will cover another representative sample. If you missed the first round, then your organisation may well be selected for this next questionnaire – now is the perfect time to start looking at your tax governance to identify any gaps before Inland Revenue do and consider now how you would answer the questionnaire.

**What does Inland Revenue want to see going forward? Are there any implications for poor tax governance?**

Inland Revenue has developed a four-stage "maturity model", and expect that the overall current state of tax governance is somewhere between "Progressing" and "Established"; noting that the questions asked as part of the campaign were not detailed enough to identify those taxpayers that fell in the "Aspirational" category:

Emerging	Progressing	Established	Aspirational
Certain processes have been used to develop some capabilities, but they continue to be ad hoc and hence need further significant improvements	Certain process improvements have been initiated but these are not yet systematically implemented and institutionalised	Robust processes have been put in place, resulting in a high degree of capability and they are institutionalised – on average Inland Revenue expect significant enterprises to cluster around this level	Processes have been optimized resulting in a paradigm shift, with use of new / innovative tools / technology and transparent reporting

## Process overview



Certain processes have been used to develop some capabilities, but they continue to be ad hoc and hence need further significant improvements. Certain process improvements have been initiated but these are not yet systematically implemented and institutionalised. Robust processes have been put in place, resulting in a high degree of capability and they are institutionalised – on average Inland Revenue expect significant enterprises to cluster around this level. Processes have been optimized resulting in a paradigm shift, with use of new / innovative tools / technology and transparent reporting.

Through further activity and engagement with taxpayers in the area of tax governance, Inland Revenue is aiming to shift the majority of the significant enterprise population into “Established”. As a result, there will be a large number of taxpayers who will now need to turn their focus to ensuring that robust processes are in place around tax, including tax strategy and documentation of the relevant controls.

The common misconception that there are no implications for non-compliance with proper tax governance procedures should be carefully considered. While there are no penalties imposed for poor tax governance itself, it is a factor that will be taken into consideration by Inland Revenue when determining the frequency of risk reviews/audits and the level of any shortfall penalties on tax reassessments – for example, if you didn’t have a robust

tax control framework in place, can you still argue that reasonable care has been taken?

### What can you do to prepare?

Our [October 2021 article](#) set out our recommended approach to strengthening your tax governance framework, using an “Assess, Respond, Monitor” cycle:

The actions outlined above are examples of steps that can be taken to progress your organisation’s tax governance and are in line with Inland Revenue’s expectations to help take your business from “Emerging” to “Established” on their maturity model.

It is important to note though that a ‘one size fits all’ doesn’t lend itself to tax governance – it is important to ensure that policies and documentation are fit for purpose and specific to the New Zealand business to ensure they achieve the objective of managing business risk. Tax strategies should align with the overall strategic objectives of the business, and controls and testing should be focused in the right areas.

We can help in various ways at each of the phases in your tax governance journey indicated in the chart above. If you would like to discuss tax governance further or are interested in running a risk assessment workshop to get things started, please get in touch.

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# A glance over the Tasman Sea for future GST compliance activity in NZ

By Jeanne du Buisson and Mirei Yahagi



Sometimes pausing and looking at what our neighbours across the ditch do things differently to New Zealand can give us an idea of what's in store for the future. In February, the Australian Taxation Office (ATO) published the [GST administration annual performance report 2020-2021](#). The report addresses specific areas of ATO's GST compliance activity and should be noted by New Zealand taxpayers, particularly as ATO contributes to the development of the GST toolkit for many Asia Pacific countries.

## Reducing the GST Gap

ATO's net GST gap calculated for 2019-20 is estimated to be 7.8%, resulting in the ATO receiving over 92% of the GST revenue that was expected to be collected, the bulk of which was collected voluntarily. The result of the favourable tax performance is largely due to ATO using technology and data to drive voluntary compliance. As ATO is one of the most

digitalised revenue authorities in the world, they have focused on their GST risk model initiative in the last 12 months.

The project has provided efficiencies and improved accuracy, resulting in a 21% increase in GST collections and a 6% decrease in costs associated with collecting GST. For ATO, the cost to collect AUD\$100 of GST is AUD\$0.71 in 2021-21, which is a significant drop from AUD\$0.92 in 2019-20. For Inland Revenue, the same metric isn't measured, but to give you a rough idea, the average cost of processing GST returns in New Zealand was \$1.86 in 2020-21.

Below are some of the initiatives that ATO has focused on to improve the GST gap.

## GST Risk Model project

As part of their initiatives, ATO focuses on continuing to modernise and improve the capability to manage GST compliance risks, with contemporary risk models to mitigate the following:

- Not meeting the 4 pillars of tax compliance – registration, lodgement, payment, and correct reporting.
- Industry and structural risks – real property transactions, financial services, and insurance, refund integrity, international and cross-border, and evasion.

The initiative also sees ATO using analytical risk models to detect suspect refunds and under-reporting of GST, resulting in raising AUD\$509 million from compliance activities, significantly exceeding the target of AUD\$284 million. In addition, ATO has also checked whether taxpayers are correctly registered which then detects and deters GST refund fraud in the community by gathering intelligence. In the past year, ATO has checked more than 22,900 GST registrations, resulting in 12% of these being cancelled and more than 360 enterprises being referred for further investigation.



### Top 100 and Top 1000 Programs

The report also outlines how ATO engages with Top 100 and Top 1000 multinational businesses for GST assurance reviews. They apply the GST Analytical Tool (GAT) to the top 100 and top 1000 GST assurance reviews which provides a strategic, top-down view of a taxpayer's GST performance. It is used to identify and understand key variances between accounting figures reported in audited financial statements and GST reported in their returns.

ATO encourages taxpayers to embed the GAT in their governance framework as it provides a check as to their GST outcomes. ATO notes that taxpayers have found benefits in applying the GAT to their systems, and they have subsequently picked up issues and made changes to improve correct GST reporting.

Along with the GAT, ATO also continues to review the following important elements from the top 100 and top 1000 taxpayers in the taxable supply industry:

- GST governance
- Determining the extent of creditable purpose
- Reduced input tax credits
- Reverse charges
- Correct reporting

Through improved GST governance, and the taxpayers undertaking more regular and robust data and transaction testing,

ATO expects to see fewer inadvertent pre-lodgement system errors.

For more details on ATO's Top 100 program, please refer to the article written by Deloitte Australia [here](#).

### Relevance to New Zealand taxpayers

Inland Revenue's recent Business Transformation project has meant that their systems are more resilient and able to handle larger data sets and transactions than previously. Along with their new systems and more automated process, the compliance teams are using more data analytics to screen GST returns and refunds.

The evolving use of analytic reviews and the increased use of these tools by Inland Revenue has enabled businesses, assisted by their advisors, to gain more visibility and control over their indirect tax profile and compliance processes.

Because of the increased analytics capability, there will be a greater focus on using data to identify the high-risk areas and industries, one example being real estate agents - this is further explained in our [May 2021 article](#). This approach could easily be rolled out for any other industry that Inland Revenue identifies as being an area of concern. Accordingly, all taxpayers should be thinking about the insight that data analytics will give Inland Revenue into the tax they pay and their tax compliance processes.

### Next steps

We encourage anyone in the industries mentioned above, or who cannot recall the last time they refreshed their GST governance to consider having a GST review. Deloitte has developed a software solution, the GST Analytics review, which uses a proven methodology that is constantly evolving to keep up with the latest market and technology developments. Our methodology involves a detailed interrogation of accounting systems to provide comfort that transactions have been treated correctly from a GST perspective, identify specific risk areas and highlight opportunities for GST savings.

Identifying areas of GST risk and opportunities now means that you can take control of reviewing your indirect tax implications before Inland Revenue's refined data analytics can undertake a review or audit.

Please reach out to your usual Deloitte advisor if you wish to discuss the GST Analytics tool or understand more about how we can help you gain visibility and control over your tax profile and compliance processes.

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# COVID-19 Support Payments Explained

By Robyn Walker



The COVID-19 Protection Framework Red Setting encourages workers to work from home where possible and also requires self-isolation in a number of circumstances. Anyone who has visited a city centre since late January 2022 will be able to attest that they are quieter than normal and impacting businesses that rely on foot traffic. While the ability to get a coffee without queuing or a seat in any restaurant without a booking is a bonus for those who are out spending, the reality is that it is unsustainable for the businesses. As a consequence, the Government has announced a new round of business support for businesses that have suffered a 40% or greater reduction in revenue. Rather than a new wage subsidy, the [COVID-19 Support Payment](#) (CSP) is in essence a new version of the Resurgence Support Payment that many businesses will be familiar with.

## What is available

Eligible businesses will be entitled to a payment of \$4,000, plus \$400 per full-time equivalent worker (up to 50 FTEs), each fortnight for six weeks. The relevant eligibility criteria will need to be met for each of the three payments. The maximum entitlement will therefore be \$72,000, or \$24,000 per payment for an employer with 50 or more employees.

For businesses with low revenue, the amount of the CSP is capped at eight times the actual decline in revenue.

The CSP can be used to cover business expenses. GST registered recipients will need to return GST on the amount of CSP received but will be able to claim back GST input tax as the money is applied to business expenses.

## What are the eligibility criteria

Businesses who have faced a 40% reduction in revenue as a result of either the presence of COVID-19, public health measures to reduce the spread of COVID-19 or businesses circumstances that are reasonably likely to be as a consequence of COVID-19 could be eligible. There are several options to calculate the revenue loss and this is explained below.

Other criteria to be aware of include:

The business must have been operating since at least 16 January 2022;

- The business must be viable and ongoing;
- All reasonably practical steps must have been taken to minimise the decline in revenue;
- [COVID-19 Vaccine Certificate requirements](#) must have been complied with;

- For the first tranche of the CSP, an application can't have been made for the [Ministry of Culture and Heritage Grant for Self-Employed Individuals](#) (as this provides separate grant funding for the arts, culture and heritage sector);
- Commonly owned groups have specific rules for calculating the revenue drop, but in summary, the whole commonly owned group must have suffered a 40% revenue drop, and each business within the commonly owned group that has had a stand-alone 40% revenue drop can make a separate claim.

It is important to note that businesses that are able to operate under the Red setting of the COVID-19 Protection Framework but have chosen to close temporarily without taking all reasonably practical steps to minimise revenue loss will not be eligible.

A full list of eligibility criteria is available [here](#).

### How to determine a revenue drop

The key issue for businesses will be to understand how to calculate whether the 40% revenue drop has been satisfied, and this is where it can start to get complicated.

There are two key numbers a business must establish:

1. Revenue for a continuous 7-day period starting on or after 16 February 2022 (an end date has not yet been set, nor has the revenue loss period for the second or third payments)
2. Revenue for a "typical" 7-day period in a six-week comparison period; either:
  - a. 5 January 2021-15 February 2021; or
  - b. 5 January 2022-15 February 2022

"Typical" revenue is revenue that a business has earned during a 7-day period that is considered to be normal or representative of the businesses' revenue. When determining typical revenue, businesses can apply a degree of pragmatism (ensuring it is documented); for example, revenue can be averaged over the 6-week period and a 7-day period chosen which is closest to the average revenue, or periods where there is no trading can be excluded (for example, the business was closed over the holiday period or for public holidays). Similarly, thought should be given to how events, such as school holidays or Christmas closings, influence "typical" revenue in the comparison period. The calendars below outline some events to be aware of when determining what may be the most appropriate comparison period.

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>January 2021</b>						
	5	6	7	8	9	10
	School holidays	School holidays	School holidays	School holidays	School holidays	School holidays
11	12	13	14	15	16	17
School holidays	School holidays	School holidays	School holidays	School holidays	School holidays	School holidays
18	19	20	21	22	23	24
School holidays	School holidays	School holidays	School holidays	School holidays	School holidays	School holidays
25	26	27	28	29	30	31
School holidays Wellington Anniversary	School holidays	School holidays	School holidays	School holidays	School holidays	School holidays
<b>February 2021</b>						
1	2	3	4	5	6	7
Auckland/ Nelson Anniversary					Waitangi Day	
8	9	10	11	12	13	14
Waitangi Day						Change in Alert Level at 11:59pm – Auckland moves to Level 3, rest of NZ moves to Level 2
15						
Heightened Alert Level						



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
<b>January 2022</b>						
		5	5	7	8	9
		School holidays	School holidays	School holidays	School holidays	School holidays
10	11	12	13	14	15	16
School holidays	School holidays	School holidays	School holidays	School holidays	School holidays	School holidays
17	18	19	20	21	22	23
School holidays	School holidays	School holidays	School holidays	School holidays	School holidays	School holidays Change to "Red Phase 1" at 11:59pm
24	25	26	27	28	29	30
School holidays Wellington Anniversary Day Red Phase 1	School holidays Red Phase 1	School holidays Red Phase 1	School holidays Red Phase 1	School holidays Red Phase 1	School holidays Red Phase 1	School holidays Red Phase 1
<b>February 2022</b>						
31	1	2	3	4	5	6
Auckland / Nelson Anniversary Day Red Phase 1	Red Phase 1	Red Phase 1	Red Phase 1	Red Phase 1	Red Phase 1	Waitangi Day Red Phase 1
7	8	9	10	11	12	13
Waitangi Day Observed Red Phase 1	Red Phase 1	Red Phase 1	Red Phase 1	Red Phase 1	Red Phase 1	Red Phase 1
14	15					
Red Phase 1	Red Phase 1 Move to Red Phase 2 at 11:59pm					

When calculating revenue, this is straightforward for a business with daily sales. For businesses that invoice clients periodically, revenue should be determined by evaluating the activities the businesses carry out that they then bill clients for. Any passive income, including interest, dividends and all forms of commercial and residential rent are excluded from revenue calculations.

**How to apply**

Inland Revenue is once again administering the scheme through the [myIR system](#). Due to changes to how the revenue loss calculation is to be determined, there are different application dates. Businesses who are comparing revenue to 5 January – 15 February 2022 were able to start applying from 28 February 2022; those businesses who are wanting to compare revenue to the same dates in 2021 will be unable

to apply until around Monday 14 March (this date may move forward depending on the time required for Inland Revenue to make necessary systems changes).

Applications will be open for at least six weeks.

Each of the three payments will need to be applied for separately, with a continued 40 percent reduction in revenue being required for each payment.

**Other business support**

The Government has also announced some improvements to the Small Business Cashflow Loan Scheme. Businesses will be eligible to draw down an additional \$10,000 and there will be more favourable no-interest periods.

The Leave Support Scheme and Short-Term Absence Payment also remain available to support businesses whose employees are

unable to work from home. You can read more about this business support [here](#).

For more information about any of these topics, please contact your usual Deloitte advisor.

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# A New Zealand Income Insurance Scheme – What does this mean?

By Robyn Walker



The Labour Party has had an interest in reforming redundancy laws for a number of years, and the latest step toward this is a proposal to introduce a compulsory national insurance scheme. If implemented, the scheme will provide workers with an income substitute if they are made redundant or are unable to work on medical grounds. Comments on the proposals are open until 26 April 2022 and it's important that all workers (including contractors and self-employed persons) and employers understand the breadth of proposals and take the opportunity to provide input.

Indications are that the scheme could take effect from 2023, which is an ambitious timetable considering the fundamental changes to employment relations that are proposed.

A copy of the discussion document summary is available [here](#) and the detailed

discussion document is available [here](#).

## What is the proposal?

At its simplest, the proposal is for employees and employers to both contribute 1.39% (or 2.77% total, noting there is some rounding) of all earnings from employment to the income insurance scheme. In return, employees will receive:

1. A requirement to have 4-weeks' notice of redundancy;
2. An additional 4-weeks' pay, at 80% from the employer (this is called a 'bridging payment');
3. Up to 6 months' pay, on up to 80% of normal earnings (subject to a cap). There is the possibility of the 6 months being extended. However, there is an expectation that the individual will be actively seeking work and must take any suitable job offered on equal or

better terms from the position they were made redundant from.

Employees will be insured against displacement (i.e. redundancy) and also loss of work for health conditions or disabilities. Of the 2.77% total levy, displacement makes up 1.42% and health conditions and disability make up 1.36% (again, there is a rounding issue).

The levy will have a maximum earnings cap, initially set at \$130,911. This means that employees and employers will both potentially be contributing up to \$1,819.66 annually to the scheme. The level of contributions could quickly add up to a large amount over a worker's life. For employers, having up to 1.39% added to the existing wage bill may sound immaterial, but could put a strain on businesses facing a range of increasing costs. To put this in perspective,



At its simplest, the proposal is for employees and employers to both contribute 1.39% (or 2.77% total, noting there is some rounding) of all earnings from employment to the income insurance scheme.

the discussion document notes:

“New Zealand has around 135,000 businesses with 1 to 19 employees (which are classed as small businesses). The median annual earnings for each worker of businesses of this size are \$51,561. Assuming a business has 19 workers who are each earning \$51,561, the levy cost to that business would be \$13,617 per year (before deductions e.g. GST). The cost of a four-week bridging payment for a business making a medium income earner redundant would be around \$3,400.”

The scheme will be administered by the Accident Compensation Corporation (ACC) given the similarities with the existing ACC scheme and the efficiencies that can create. Employee levies are expected to be collected by Inland Revenue as an additional deduction in PAYE returns.

#### Where did this come from?

The proposals have come from The Future of Work Tripartite Forum, which is a partnership between the Government, Business New Zealand and the New Zealand Council of Trade Unions. The proposals are essentially an alternative option to wider reforms of redundancy laws proposed in a [2008 report](#) which recommended compulsory redundancy payments based on length of service. Budget 2021 made reference to the work being undertaken, with the Minister of Finance’s [Budget Speech](#) noting:

*“We have also learned lessons from COVID-19. One of those is that, just as occurred after the Canterbury Earthquakes and GFC, the Government found itself having to put in place ad-hoc measures to protect the incomes of New Zealanders who had lost their jobs. We did this with the COVID-19 Income Relief Payment. At the urging of Business NZ and the Council*

*of Trade Unions we have committed to the development of a Social Unemployment Insurance scheme. Many countries around the world have such a scheme. We are investigating an ACC-style scheme that would provide 80 percent of income for a fixed period of time, with minimum and maximum caps, linked to training opportunities. This proposal is being developed by a tripartite working group with Business NZ and the CTU, and public consultation will occur later in the year.”*

Since Budget 2021, the proposal has developed and expanded in its breadth to incorporate medical cover.

Part of the rationale for the proposals is that providing insurance cover to displaced workers will ensure they have the opportunity to consider what they want for their next role without the financial pressure which might otherwise lead them to take the first available job, even if it pays less (this is a concept referred to as “wage scarring”).

Most other OECD countries operate some form of insurance scheme, with New Zealand being an outlier, along with Australia. It is noted in the discussion document that Governments can provide insurance more efficiently than the private insurance market.

#### The detail

The proposals are set out in a 178-page [discussion document](#), the length provides an indication of the complexity within its pages. The terms for each type of cover are similar but slightly different. Set out below are some of the key proposals:

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### Displacement insurance

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<b>Who is required to contribute</b>	<ul style="list-style-type: none"> <li>• All full time and part-time employees.</li> <li>• Most casual, fixed-term and seasonal workers.</li> <li>• Self-employed workers who “most resemble employees” will need to contribute.</li> <li>• It is intended that contributions are made by as many types of workers as possible (including working holidaymakers, international students and other temporary work visa holders) to ensure there are no incentives to convert workforces to contractors or non-residents to avoid the levy.</li> </ul>
<b>Who is eligible to claim</b>	<ul style="list-style-type: none"> <li>• New Zealand citizens and residents who have been made redundant.</li> </ul>
<b>What is received</b>	<ul style="list-style-type: none"> <li>• Income insurance is received based on 80% of the workers' previous earnings, subject to a maximum prior earning level of \$130,911.</li> </ul>
<b>What do employers need to pay</b>	<ul style="list-style-type: none"> <li>• If an employer makes an employee redundant, they are required to provide 4-weeks' notice of the redundancy. A further 4-week “bridging payment” is also required, based on 80% of the employee's ordinary earnings.</li> <li>• The employer may be able to get the bridging payment refunded if they assist former employees to find new work.</li> <li>• If the employer is insolvent this payment may be covered by the scheme and later recovered from the employer or liquidator.</li> </ul>
<b>What are the criteria to claim</b>	<ul style="list-style-type: none"> <li>• New Zealand citizens and residents will be eligible to claim if they are displaced from their employment.</li> <li>• An employee will not be eligible if they are dismissed for poor performance or misconduct, or they resign.</li> <li>• A job must be lost in full rather than a reduction in hours. A worker with multiple jobs can claim if displaced from a position while continuing to work in other jobs.</li> <li>• For non-standard workers, eligibility will be based on a “loss of reasonably anticipated income” based on an “established pattern of work”.</li> <li>• A fixed-term employee may be eligible if their employment term finishes earlier than the planned end (any payments under the scheme will only run to the planned end date).</li> </ul>
<b>What is the maximum claim period</b>	<ul style="list-style-type: none"> <li>• The insurance scheme will pay out for up to 6-months (ceasing when alternative employment is found), so employees will receive close to 8-months of income (incorporating the 4-week redundancy period and 4-week bridging period).</li> <li>• The 6-month claim period can be extended to up to 12-months where there is a need for approved training or vocational rehabilitation.</li> </ul>
<b>What requirements are there for claimants</b>	<ul style="list-style-type: none"> <li>• Claimants will be assessed whether they can self-manage finding a new job or whether direct support is required (e.g. a case manager can be appointed).</li> <li>• Claimants would be expected to be based in New Zealand, to show effort to search for suitable employment and to prepare for employment.</li> <li>• Claimants would not be required to accept non-suitable offers of employment, such as those that do not offer pre-displacement wages and conditions. Claimants would be expected to accept suitable offers of employment.</li> </ul>
<b>Can a claimant earn other income</b>	<ul style="list-style-type: none"> <li>• Yes, a claimant can earn up to 20% of prior income from personal exertion before having the insurance payments abate at 100%. This enables the employee to ‘top themselves up’ to their previous level of income.</li> <li>• Only personal exertion income will be counted (i.e. any investment income is ignored).</li> </ul>
<b>Other points to be aware of</b>	<ul style="list-style-type: none"> <li>• Contributions must have been made for 6-months in the 18-months preceding the claim. This includes any time on Paid Parental Leave.</li> <li>• It is proposed to only allow one 6-month entitlement every 18-months.</li> <li>• Insurance payments will be treated as income for welfare and tax purposes.</li> <li>• Payments are not means-tested or linked to other household income.</li> <li>• Paid Parental Leave can be received sequentially with the income insurance payments.</li> <li>• A claimant will be able to spend up to 28 days outside New Zealand.</li> </ul>



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**Health conditions and disability insurance**

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<b>Who is required to contribute</b>	<ul style="list-style-type: none"> <li>• All full-time and part-time employees.</li> <li>• Most casual, fixed-term and seasonable workers.</li> <li>• All forms of self-employed workers would also fully contribute.</li> </ul>
<b>Who is eligible to claim</b>	<ul style="list-style-type: none"> <li>• New Zealand citizens and residents who have at least a 50% reduction in work capacity that is expected to last for at least 4-weeks.</li> </ul>
<b>What is received</b>	<ul style="list-style-type: none"> <li>• Income insurance is received based on 80% of the workers' previous earnings, subject to a maximum prior earning level of \$130,911.</li> <li>• It is not clear in the document, but if an employee is still able to work part-time (up to 50%), the payment would be adjusted to reflect this.</li> </ul>
<b>What do employers need to pay</b>	<ul style="list-style-type: none"> <li>• Employers are expected to take reasonable steps to support employees continuing to work.</li> <li>• An employer will need to provide 4-weeks notice and make a 4-week bridging payment if an employee is dismissed on medical grounds.</li> <li>• If the employer agrees to hold a job open for the employee then the bridging payment is not required.</li> </ul>
<b>What are the criteria to claim</b>	<ul style="list-style-type: none"> <li>• The claimant would need to provide a work capacity assessment, and where required, supporting evidence from the employer of the claimant's capacity to undertake their job.</li> <li>• Ongoing reviews would be guided by advice from the claimant's health practitioner.</li> <li>• There will be no restrictions on the types of conditions covered by the insurance scheme, other than they are expected to persist for at least 4-weeks.</li> </ul>
<b>What is the maximum claim period</b>	<ul style="list-style-type: none"> <li>• The insurance scheme will pay out for up to 6-months.</li> </ul>
<b>What requirements are there for claimants</b>	<ul style="list-style-type: none"> <li>• Claimants would provide subsequent work capacity medical certificates, if required.</li> <li>• Claimants would engage in return-to-work activities (for example, rehabilitation, training, job search) where relevant and required.</li> <li>• Any job search obligations could be deferred based on guidance from a health practitioner.</li> </ul>
<b>Other points to be aware of</b>	<ul style="list-style-type: none"> <li>• Employees must have used all available paid sick leave before claiming under the scheme.</li> <li>• Self-employed workers who are not eligible for the displacement insurance should only expect to have to pay for the health condition or disability insurance (being a levy of 1.36%).</li> </ul>



## Questions

Most people are likely to agree that dealing with COVID-19 and the ubiquitous concept of the “future of work” makes it clear that there is a need to do something to ensure New Zealand continues to have a productive workforce. The question is, is the proposed New Zealand Insurance Scheme the right answer? The discussion document poses 94 questions for submitters to provide feedback on. Given the impact such a scheme could have, we think as many people as possible should provide feedback so that informed decisions can be made on the way forward.

Additional questions not included in the discussion document which possibly warrant consideration in the design of any scheme include:

- Should the insurance be compulsory for those employees and employers who have already opted to have private insurance cover?
- How will different types of insurance cover interact with one another (e.g. will private income protection insurance preclude some from claiming under this scheme or vice versa)?
- Should the scheme be covering both displacement and health risks?
- Should the health coverage be wider, for example to cover workers who are unable to work because they need to care for a family member?
- Is the one size fits all approach to the rate of levies appropriate?

- How are levies and claims calculated, should this include all forms of employment income such as bonuses, share schemes and fringe benefits?
- How should self-employed workers sensibly be included in the scheme?
- How should the scheme work if a displaced worker wants to start a new business rather than find new employment?
- Can alternative incentives be used to adapt to the “future of work”, for example rewarding employers and employees who proactively retrain to avoid displacement occurring in the first place?
- What practical options could help reduce any moral hazards arising from such a scheme?
- What impacts could the scheme have on employment contracts going forward, particularly for employers currently offering redundancy packages and sick leave above the statutory minimum level?
- If the scheme isn't implemented in line with a standard tax year (1 April – 31 March), how will income and levies be calculated in year 1?

Finally, bearing in mind that there are several really difficult issues to grapple with in creating a scheme that is widely supported and sustainable, are the timeframes for implementing a New Zealand Income Insurance Scheme long enough? It is proposed that legislation is introduced in

2022, with the scheme applying from late 2023, a potential 23-month window from discussion document to application. A more generous timeline for the New Zealand Income Insurance Scheme may allow more time for upfront policy design and robust scrutiny of the legislation through Parliamentary processes, and of course ensure there is adequate time for employers, employees and the government itself to get ready once legislative processes are completed.

Submissions can be made online, and there is an option to complete an anonymous [online survey](#) that seeks to gauge the level of agreement with a range of statements.

If you'd like to discuss how the New Zealand Income Insurance Scheme could impact your business, please get in touch with your usual Deloitte advisor.

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# Going digital

By Amy Sexton and Robyn Walker



Issues papers set out the Inland Revenue's initial views on a topic and request feedback from interested parties on the questions prompted by these views. They are intended to stimulate discussion and allow for the Inland Revenue to gain a better understanding of the practical concerns of taxpayers. The latest Issues Paper released by Inland Revenue is entitled [Tax administration in a digital world](#), and essentially is some blue sky thinking about how the tax system can be further enhanced with the completion of Inland Revenue's Business Transformation process.

## Why go digital?

After the completion of the Business Transformation programme, the Inland Revenue is exploring how to utilise this modern administration system to expand the digitisation of the tax and social policy systems.

Tax administration is traditionally a sequential process, involving several paper-based steps that involve identification of taxpayers, transaction reporting, applying tax rules, calculating tax due, paying tax, audits and the enforcement and appeals process. However technology is moving fast,

and business systems have moved away from paper and are becoming fully digital. This now makes digital the "natural system" for businesses. Inland Revenue sees that by businesses being fully digital, tax calculations can be embedded in accounting and transaction software, making tax a seamless and automated process, and therefore reducing compliance costs. Inland Revenue describes this as a paradigm shift for both taxpayers and tax administration.

There are a number of potential benefits to digitising the tax system, including:

- Better compliance as compliance improves when paying tax is easy to do;
- Making it harder for taxpayers to get it wrong or manipulate data;
- Lower compliance costs, stress and risk for taxpayers;
- Lower administration costs for Inland Revenue; and
- Creating value throughout the economy through more efficient processes or providing a spur to innovation.

## How do we get there?

Inland Revenue does not see itself as

driving the shift to digital, instead, it is about keeping up with how people are already living their lives and doing business. Inland Revenue sees a future role as an enabler, with the customer-facing parts of tax compliance being delivered by private sector intermediaries. To be able to do this Inland Revenue believes that the existing tax system will need to be adapted and legislation simplified to allow more digital processes.

## Simplification

In the digital world, data is cheap and people are expensive, this flips the traditional view on its head. Inland Revenue, as a tax administrator, sees this as an incentive to change to:

- Automated tax processes that do not need human intervention, which would generally mean eliminating complex judgements; and
- Tax rules that do not require as much accuracy when determining tax liabilities. The cost of complete accuracy, via human intervention, outweighs the tax saved (by taxpayers) or collected (by Inland Revenue).



This simplification of the tax (and social policy system) will require changes in several areas, including:

- Legislation written to support machine learning to allow automation with external systems;
- Simplification of year-end tax returns, including simplification of adjustments, taxpayer flexibility in cash/accrual decisions and a simplification of asset depreciation schedules;
- Changes to systems for paying tax, including through intermediaries;
- A greater role for intermediaries in assisting taxpayers to comply with and determine tax liabilities; and
- A move to real-time systems, which questions the length of existing time-bar periods and whether a real-time system means these should be reduced.

#### **External Parties**

Inland Revenue sees the move to digital would expand the role of external parties into three broad areas:

- Traditional tax agent/intermediary;
- Providers of products and services

taxpayers use for business that as a by-product assist taxpayers with their tax; and

- Providers of services that are unrelated to tax but use tax information and require access to data held by Inland Revenue.

Inland Revenue's goal is to create a "seamless boundary" between the external parties and Inland Revenue to provide greater flexibility and convenience to taxpayers and social policy customers. However, this "seamless boundary" and data sharing raises many questions about the regulation of these external parties, data collection and sharing.

#### **Regulation**

Currently, the Tax Administration Act 1994 defines the entry requirements and rights of external parties, including tax agents and PAYE intermediaries. Inland Revenue believes that this rigid definition framework will not provide flexibility for the development of the new roles for external parties that are likely to result from digitisation. The issues paper examines a number of different approaches Inland Revenue is considering

for a new regulatory framework, including an "obligation" to uphold integrity and limiting access to Inland Revenue data and services based on the role the external party performs for their customer.

#### **Data collection and sharing**

Traditionally Inland Revenue has needed to physically collect and store data. With a move to digital, there may be a case for, in some instances, Inland Revenue to only need access to data held by external parties and not physically collect this data anymore. In turn, Inland Revenue is considering whether it should share, on taxpayers' consent, data it holds with non-governmental third parties. This move to share data more widely would be consistent with the Government's policy to implement a new legislative framework for consumer data rights (with legislation planned for 2022).

Any discussion on the collection and sharing of taxpayer data will raise serious concerns surrounding the security, privacy and use of that data and the Inland Revenue will need to be very clear on how it will protect taxpayers.



### What does the future look like for different taxpaying groups?

Inland Revenue sees the digitisation of tax administration as being most beneficial to the small business sector, being the self-employed, micro and small-medium businesses. These businesses are likely to have less complex tax issues and tax calculations that can be automated and embedded into business software.

Larger businesses are described by Inland Revenue as having “complex and bespoke tax affairs” which makes the standardised solutions that are anticipated for smaller businesses unsuitable. There may be some areas where the tax administration of large businesses can be improved and compliance costs reduced, however, it is expected that manual intervention will still be required for large taxpayers.

A concern with this “two-tier” approach is that the owners of small businesses that grow into large business (and their accounting/business systems) will be unprepared for the steep increase in tax compliance requirements (and costs) when moving into this “manual intervention” tax model.

It is expected by Inland Revenue that there will be limited scope for further improvements for individual. The year-end tax process is already largely automated

for the majority of individuals who have third parties providing information to the Inland Revenue when they receive income with PAYE deducted and investment income with tax already withheld.

Inland Revenue is aware that there are those who are not able to or will not want to, embrace the new digital technologies. Inland Revenue states it is committed to continuing to provide personalised services using non-digital channels as there is a right to access government services.

### Comment

The Issues Paper raises some interesting and valid ideas that could really improve the tax system. However, as the Issues Paper rightly points out, it will require a paradigm shift from both taxpayers and Inland Revenue. Anyone who has ever tried to read tax legislation will be able to attest that our current set of tax rules have been becoming increasingly complex and filled with exclusions and exceptions, so it can be difficult to envisage a scenario where legislation is sufficiently simplified to allow automation to occur. The complexity in legislation can be driven by both Government and taxpayers who respectively look to capture or exclude certain transactions from tax. A move toward simplification will require acceptance that sometimes tax won't be collected, or in contrast tax will be collected in a scenario

that might not seem fair – that might be a paradigm shift too far for some.

If you wish to discuss the topics raised in this issues paper further, please contact your usual Deloitte advisor. If you wish to submit on the questions raised in the issues paper, the deadline for submission is **31 March 2022**.

Inland Revenue is aware that there are those who are not able to or will not want to, embrace the new digital technologies. Inland Revenue states it is committed to continuing to provide personalised services using non-digital channels as there is a right to access government services.

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# Fringe Benefit Tax season is coming – helpful tips and tricks to surviving Quarter Four FBT returns

By Andrea Scatchard and Aaron Mitchell



In the current COVID-19 economic environment, most businesses are considering ways to reduce costs. One area that is often overlooked is fringe benefit tax (FBT), with many employers unaware of the number of different calculation options and potential exemptions that may be available to them. With the [recent increase in FBT rates](#) and the March 2022 fourth quarter (Q4) FBT returns due by 31 May 2022, now is an opportune time for employers to look at their FBT arrangements. Read on for a brief overview of tips and tricks as well as common pitfalls employers should be aware of when preparing Q4 FBT returns.

We would also like to invite you to our free webinar on FBT and employment taxes, presented by a team of FBT and payroll experts from across our Deloitte New Zealand offices, on Tuesday 5 April 2022 at 10.00am. Please register for this event [here](#).

## 1. Consider whether to perform a fourth-quarter attribution calculation

As noted [in our earlier article](#), from 1 April 2021 the top FBT rate was raised to 63.93% (in conjunction with the top marginal tax rate increasing to 39%) with the pooling rate increasing to 49.25% (previously 42.86%). Prior to this change, a large number of employers were using the single rate option to pay FBT on all benefits provided at a flat rate of 49.25%. However, the increase in FBT rates has prompted many employers to look at using the various alternate rate options that are available for use in the March FBT quarter. The full attribution calculation is complicated but broadly aligns the FBT rate that applies to benefits provided to each employee with the employee's marginal tax rate. There are lower compliance cost options also available although these

generally will not generate the same level of FBT saving.

Our experience shows employers can and do save material amounts when going through the full attribution exercise and now more than ever it is something employers should consider. At the very least, rather than perform the full attribution calculation, employers should consider whether it is possible to "pool" eligible benefits and tax these at the lower pooling rate of 49.25% rather than paying FBT on all benefits at the flat rate of 63.93%.

## 2. Motor vehicles – calculation of exempt days

Employers should ensure that the correct number of motor vehicle exempt days are being used when calculating FBT each quarter.



A common error we see is FBT being returned based on 90 private use days every quarter and not taking account of any days where the motor vehicle was not available for private use. At the other end of the scale, it is also common for exempt days to be claimed without the necessary support for the exemption being held. Employers should ensure that all available exempt days for motor vehicles provided are claimed and should review their motor vehicle policies regularly to determine whether there is an option to reduce the availability for private use.

Given that there have been several lockdowns during the last year, employers should also consider the impact of these on their FBT liability. Inland Revenue has confirmed that the normal FBT treatment of motor vehicles will apply during Level 4 lockdown periods, i.e. vehicles are typically still available for private use even though opportunities for the employee to privately use the vehicle are restricted under Level 4 settings. For employers, this means that unless you have a specific arrangement with your employees to make the vehicles unavailable for private use during the Level 4 lockdown period (i.e. employers have issued letters restricting private use of motor vehicles during the period, or employers have required company cars

to be left on site for lockdown), FBT will continue to be calculated on the motor vehicles as normal. A similar position applies during the COVID-19 protection framework 'red' settings.

### **3. Motor Vehicles – Work-related vehicle (WRV) exclusion**

Not all business vehicles are work-related vehicles for FBT purposes. To qualify, the vehicle must not be principally designed to carry passengers, it needs to be permanently and prominently sign-written with the company logo, the employee is required to take the WRV home for business reasons and is prohibited from any private use other than travel to and from work.

The operation of the exclusion is also dependent on regular checks being undertaken to establish that the private use restriction is adhered to. A material shortfall in FBT can arise where vehicles have been treated as not subject to FBT, but they fail to meet all of the WRV requirements and so the exclusion does not apply.

### **4. Applying the de-minimis exemption for unclassified benefits**

Unclassified benefits are exempt from FBT where the taxable value of the benefit provided to each employee is \$300 or less per quarter per employee and the

total taxable value of all unclassified benefits provided by the employer over the past 4 quarters is \$22,500 or less. This calculation is a rolling quarterly calculation and includes the current quarter. In practice, we find this exemption is either missed completely or the rolling quarterly calculation of the threshold is not done correctly.

Further, associated employers must be grouped to determine whether the thresholds are exceeded (i.e. if together two companies in a group exceed the \$22,500 threshold, then both companies are unable to make use of this exemption, even if one or both of them are under the threshold in isolation). This is a particular risk where there is limited or no information sharing between entities in the group.

### **5. Annual filing threshold**

Small employers (those where total gross PAYE and ESCT contributions for the previous year were less than \$1,000,000) have the option of filing FBT returns annually. However, in order to file annually, an election needs to be made with Inland Revenue. A common error we see is that elections are not made or renewed by the 30 June deadline (or the end of the first quarter of the FBT year in which fringe benefits arise). If an election has not been made by this date, a small employer that



has already registered as an employer with Inland Revenue before 30 June 2021 will still be required to prepare quarterly returns for the 2022 FBT year, even if they have not yet registered for FBT.

#### 6. Insurance premiums – subject to FBT or PAYE?

Determining whether insurance premiums are subject to the FBT or PAYE regime is a common issue we see, and while the core tax should be roughly the same under either option, PAYE will be more costly once associated deductions such as KiwiSaver, student loans etc are taken into account.

As a general rule, where an insurance policy is taken out by an employee, but the employer pays the premiums on the employee's behalf or reimburses them, the premiums should be subject to PAYE. On the other hand, where the insurance policy is taken out by the employer for the benefit of the employee, premium amounts paid by the employer should be subject to FBT.

For further information on this, please refer to our July 2018 [article](#) on this topic.

#### 7. FBT vs PAYE vs Entertainment

There is often confusion about whether something is subject to PAYE or FBT, and how the FBT regime interacts with the entertainment rules. If in doubt, seek help from your friendly Deloitte tax advisor. Our December 2021 [article](#) highlighted these issues in relation to Christmas gifts and parties.

It is important to get the treatment correct as there can be different outcomes under the different regimes, for example, there may be a possible exemption in the FBT regime which is not replicated for PAYE purposes.

#### 8. GST-inclusive Employee Benefits

All fringe benefits need to be calculated on a GST-inclusive basis. If you are relying on a general ledger amount to determine the taxable benefit, remember it will usually be a GST-exclusive amount and so will need to be grossed up for GST, if GST was charged and claimed on the cost.

Employers should also ensure they identify fringe benefits which do not give rise to the additional GST liability in the FBT returns, such as life insurance and low-interest loans.

#### 9. Treatment of employee contributions towards fringe benefits

The taxable value of fringe benefits are reduced to the extent contributions are made by the employee towards the benefit, so it is important to identify these and include them in your FBT calculation. This can include employees personally paying for fuel or other expenses for the company car in which case you need a process to gather this information.

#### 10. Treatment of electric vehicles/chargers

The Government's focus on increasing the number of electric vehicles (EVs) in use has led to many employers now incorporating EVs into their vehicle fleet. Some employers allow personal use of onsite EV chargers, and others are installing EV chargers at employees' homes to allow fast charging at home.

With the EV revolution in its early stages, it can be easy to overlook the tax considerations that an EV strategy may have and which should be factored into any decision-making process. For example, is the cost of employer power used to charge an employee's personal vehicle taxable?

Or can the employer reimburse tax-free the cost of an employee's power used to charge a company car at home? If you need help answering these or similar questions, we recommend you seek help from your friendly Deloitte tax advisor.

Hopefully the above is useful 'food for thought', but if you have any questions or concerns regarding your upcoming FBT return, please don't hesitate to contact us.

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# Draft COVID-19 guidance provides a refresher on tax deduction rules

By Robyn Walker and Dave Morris



While it may be hard to remember a time before masks, boosters and daily case reports, at the start of 2020 COVID-19 related expenses were highly unusual. Given the unfamiliarity of costs such as personal protection equipment (PPE) and managed isolation and quarantine (MIQ), there was some uncertainty as to whether these costs were tax-deductible. In response, albeit 2 years later, Inland Revenue has released guidance on the tax treatment of costs incurred from COVID-19 in the form of draft interpretation statement PUB00432 [“Income Tax – deductibility of costs incurred due to COVID-19”](#). This item is a follow-up to a previous interpretation statement [“Income tax and GST – deductions for businesses disrupted by the COVID-19 pandemic”](#).

It is worth noting at the outset that no law changes have been made to amend how the rules apply to COVID-19 related expenditure, that is, there have been no concessions or amendments to the general principles.

In essence, the draft Interpretation Statement restates general deductibility and capital versus revenue principles, as well as emphasising that just because a cost is unusual, or one-off doesn't necessarily mean general principles won't still apply.

As the guidance examines the basic principles of deductibility and the capital limitation it may be useful as a starting point when determining the deductibility of costs beyond those directly related to the pandemic.

## General tax deduction rules

While potentially unaware of its technical name, most businesses will be aware of the “General Permission” in the Income Tax Act 2007. This is the gateway to obtaining a tax deduction for expenses before diving into the more specific rules and exemptions. Put in simplistic terms, the General Permission allows taxpayers a deduction for costs incurred in deriving income or carrying on a business for the purpose of deriving income. The draft interpretation statement accepts that businesses incurring costs to adapt to COVID-19 would usually have a connection to their income and will generally satisfy the General Permission.

However, the General Permission has some limitations to it, most notably



the “Capital Limitation”, meaning that many costs of a capital nature cannot be deducted (although in some cases they can be allowed overtime as depreciation). The draft interpretation statement provides a concise, but useful summary of the capital limitation.

#### **Application to particular costs** **Employment costs**

Since the advent of COVID-19, employers have incurred many unexpected employment costs including redundancy, legal fees and purchasing PPE. COVID-19 restrictions on travel have also meant employers have incurred costs that they would not normally of encountered when there was free movement between countries, such as MIQ stays and COVID-19 tests. It is acknowledged that the majority of these employee costs are still deductible as employee costs are by their nature linked to a business’ income. However, applying the previously described capital principles, employee costs are not deductible if they are for a capital project.

#### **Legal fees, business interruption and premises**

There is some discussion around legal fees that may be incurred in pandemic disputes, with the general capital limitation principals still applying, as well as the section DB 62 override for legal fees of \$10,000 or less still being available.

As there have been many interruptions to business over the pandemic period,

some temporary others more permanent, many may be wondering if they can still claim depreciation if assets are not being actively used in the business. In short, the answer is yes as long as the asset is available for use in the business and the business is being carried on. The guidance gives a good description of how to determine whether an asset is available for use but is less clear on how to determine if a business is being carried on (the previous guidance on business disruption should be referred to instead).

There have been many tenancy variations and disputes since the start of the pandemic. The guidance addresses this by noting the current deductions available for the surrender or termination of land leases and licenses. These are a series of tax rules which were introduced in 2013 which generally allow tax deductions for such costs, even if they would otherwise be considered capital expenditure. Unfortunately, there are no similar rules for leases and licences of many other property types.

Finally, the draft interpretation statement explains that deductions are available for the relocation of a business as long as these costs maintain the existing structure of the business and are not expansionary.

The draft interpretation statement discusses legislation that has been in place over an extended period and it may be of limited additional utility to

those already well versed in tax law, but it may serve as a useful reminder of the important concepts of deductibility and capital expenditure for others. Submissions on the draft interpretation statement close on 30 March 2022.

If you wish to discuss the deductibility of any COVID-19 expenses you have incurred, please contact your usual Deloitte advisor.

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# 10 Tax System Insights

By Robyn Walker



The Public Service Act 2000 has introduced a new obligation on Government departments to prepare a Long-Term Insights Briefing (LTIB) at least once every three years. The purpose of the briefing is to make information and impartial analysis available about medium- and long-term trends, risks and opportunities that affect, or may affect New Zealand. An LTIB can set out policy options, with strengths and weaknesses, without the need to indicate a preference for any option.

The [Inland Revenue](#) has released a draft of its inaugural LTIB for comment. At 96 pages and an additional 37 pages of technical appendices, the LTIB is not for the faint-hearted. If nothing else, it provides a glimpse into how economists think about taxes, which could be summarised as being quite different to someone working in the day-to-day nitty-gritty of tax compliance and analysis of legislation.

The LTIB aims to “help build up an understanding of how taxes on inbound investment can combine to affect incentives to invest in New Zealand”. It analyses several hypothetical policy choices such as reducing the company tax rate, accelerating depreciation deductions, increasing the thin capitalisation safe harbour threshold, providing an allowance (i.e. deductions) for corporate equity, and having a dual income tax system that taxes capital and labour differently. Some of these options are quite a shift from the existing tax system.

Rather than attempting to explain or analyse these options, instead, this article presents 10 other insights taken from the briefing.

1. New Zealand has an above-average company tax rate (compared with the OECD average) as well as very low foreign direct investment and outbound direct investment. New Zealand has the eighth highest company tax rate in the OECD and the fourth-highest effective marginal tax rate. New Zealand has the highest company tax rate when just looking at similar-sized economies.
2. A study of Inland Revenue data on high-wealth individuals suggests that only 5% of income is taxed at personal tax rates, 12% is taxed at the trustee tax rate and 83% is taxed at the company tax rate.
3. In 2010/11 there was a change to a number of tax rules, including reducing the company tax rate and removing depreciation on buildings and the depreciation loading. The LTIB suggests there is evidence that the result was that effective marginal tax rates increased rather than decreased.
4. New Zealand has the highest cost of capital on buildings within the OECD, with a cost of capital of 4.1 (this was 4.9 before commercial building depreciation was reinstated in 2020). The average cost of capital across the OECD is 3.3. The OECD data suggests that New Zealand has relatively high costs of

capital across most asset types.

5. Over the last twenty years, there has been an overall increase in the weighted average cost of capital in New Zealand, moving from 3.75% in 2000/01 to 3.83% in 2020/21.
6. The gap between the highest personal tax rate (39%) and the company tax rate (28%) is very low by OECD standards. The average difference is 19.5% (Australia is 17%, Ireland is 27%, UK is 26%, US is 17.9%).
7. Two international studies have concluded that thin capitalisation rules have a negative effect on employment and investment by multinational corporations.
8. There is limited evidence of foreign-controlled companies maximising debt in New Zealand. The average amount of debt is 43%, and only 9.4% of businesses who complete Inland Revenue’s International Questionnaire have between a 50%-60% debt to asset ratio. 44.1% of foreign-owned groups have zero debt in New Zealand.
9. Of the debt of foreign-controlled companies, only 37.3% is related party debt.
10. 50.1% of all foreign direct investment into New Zealand comes from Australia.

Inland Revenue is interested in receiving feedback on its draft LTIB. Comments can be provided until **14 April 2022**.

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# Snapshot of recent developments



## Deloitte Tax Calendar

We're currently working on the Deloitte tri-fold tax calendar containing key tax payment dates, rates and quick tax facts for 2022-2023. If you would like a free copy for your desk or for members of your accounting team, please click [here](#) to order.

The calendar will be sent out in early April. Please order your copy by 18th March 2022.

## Tax Legislation and Policy Announcements

### Changes made to the Small Business Cashflow Loan Scheme

On 21 February 2022, the Government [announced](#) the following changes were being made to the Small Business Cashflow Loans Scheme to support businesses:

- An additional \$10,000 can be drawn down for the SBCS base loan with a repayment period of five years, the first two years being interest-free, providing the loan does not default.
- Removing the first two years of accrued base interest from all borrowers who have, or will, take out a loan under the scheme. This change will mean interest will only start accruing at the beginning of the third year (previously the loan would only be interest-free if repaid in full within two years).

### Extension of the remittance of penalties and interest

Inland Revenue's ability to remit interest if a business is late paying its tax because they are adversely affected by COVID-19 has been extended. Penalties and interest can be remitted for tax payments due on or after 14 February 2020 up until 24 March 2022 (including provisional tax). This will soon be extended to 7 April 2024. Please contact your usual Deloitte advisor to discuss eligibility if you have any further queries or would like to make a remittance application.

### Clean car legislation passed by Parliament

On 17 February 2021, the [Land Transport \(Clean Vehicles\) Amendment Act](#) received Third Reading in Parliament and was enacted on 22 February 2022. The Act amends the Income Tax Act 2007 by inserting a definition of "clean vehicle discount scheme" into the FBT rules to clarify that, for fringe benefit tax purposes, the cost of the vehicle is net of the amount of the any payment under the clean vehicle discount scheme. The amendments to the Income Tax Act 2007 are deemed to have come into force on 1 July 2021.

### NZ Customs deferred payment scheme credit limit may increase automatically

From February 2022, NZ Customs has started to automatically increase credit limits for selected importers using the [Deferred Payment Scheme](#). This is to allow

Customs to trade more freely, as a result of the global supply chain challenges.

### New Zealand signs free trade deal with United Kingdom

The Government has [announced](#) that on 28 February 2022, New Zealand signed a high quality, comprehensive free trade agreement with the United Kingdom, one of the world's largest economies and an important long standing partner.

On day one, 99.5% of current New Zealand trade will enter duty-free, through a combination of tariff elimination and duty-free quotas. Quotas will grow over time and then be removed.

## Inland Revenue statements and guidance

### New depreciation rate finder and calculator

Inland Revenue has added a new combined [Depreciation rate finder and calculator](#) onto their website to replace the Depreciation claim calculator and the Depreciation rate finder that was removed in October 2021. The new tool can be used to find the depreciation rate and/or calculate depreciation for a business asset.

### Australian listed share exemption from the Foreign Investment Fund (FIF) rules tool

Inland Revenue has added a new [FIF exemption tool](#) to replace the previous tool that was removed in October 2021.





The new tool can be used to check if shares in an Australian company are exempt from the FIF rules.

#### Support for Taranaki floods

Significant rainfall and flooding [affected the Taranaki region](#) over the Waitangi weekend 2022. If this has caused taxpayers to miss a payment, the filing date or they are struggling to deal with tax affairs as a result, they can contact Inland Revenue as they have a range of support available for businesses, individuals and families affected by the floods.

#### Support for flooding in West Coast region and top of South Island regions

On 13 February 2022, Minister for Rural Communities, Damien O'Connor declared a medium-scale adverse event for the West Coast and top of the South Island regions. To assist farmers and growers, Inland Revenue is exercising discretion to allow early withdrawals from the income equalisation scheme. Inland Revenue also has a range of support in place for affected businesses, individuals and families.

### OECD updates

#### Public consultation on Pillar One and Pillar Two

##### Pillar One

On 4 February 2022, the OECD [released](#) the first stage of public consultation on the "building blocks" for Amount A of Pillar One. The first building block released is the [Draft Model Rules for Nexus and Revenue Sourcing](#), with submission having closed on 18 February 2022. The Draft Model Rules provide the detail necessary to identify the end market for specific categories of

transactions, i.e., to identify the jurisdiction in which revenue arises for the purposes of Amount A. The Draft Model Rules constitute a working document reflecting the work undertaken to date and do not yet have the consensus of the OECD Inclusive Framework. The OECD has also published the public comments received.

On 18 February 2022, the OECD released the Pillar One – Amount A: Draft Model Rules for Tax Base Determinations for public consultation, with a submission deadline of 4 March 2022. The tax base rules are designed to calculate the profit (or loss) of a Covered Group that will be used for the Amount A calculation. The tax base is therefore the measure of profit that forms the basis for partial reallocation under Amount A rules. The rules determine that profit (or loss) will be calculated based on the consolidated group financial accounts while making a limited number of book-to-tax adjustments. The rules also include provisions for the carry-forward of losses.

The OECD has also confirmed that a public consultation document for Amount B of Pillar One will be issued in mid-2022, followed by a public consultation event after the comment period.

##### Pillar Two

A public consultation document on the implementation framework for Pillar Two will be launched soon, with the public consultation event being held in March. The Subject to Tax Rule of Pillar Two draft model provision and commentary will be released in March 2022 with a defined set of questions set for input.

OECD Countries continue the successful

implementation of international standards on harmful tax practices and tax dispute resolution

On 24 January 2022, the OECD released an update explaining that progress continues in combatting harmful tax practices and providing greater tax certainty. New outcomes on the review of preferential tax regimes and new peer review reports on Mutual Agreement Procedures have been approved by the OECD/G20 Inclusive Framework on Base Erosion Profit Shifting, which groups over 140 countries and jurisdictions on an equal footing for multilateral negotiation of international tax rules.

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

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