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Tax Alert

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Tax bill promises simplification

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Tax bill promises simplification

By Robyn Walker

Tax Bills can be the things people love to hate – a new collection of additional rules which typically make the tax rules a little more complicated.

However if the name is anything to go by, the latest Tax Bill tabled by the Government will make the tax system better, not worse.

The Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill (the Bill) was introduced in late August 2025 and is about to start its journey through Parliamentary processes before being enacted in March 2026 (if typical tax bill timetables are followed).

The Bill lives up to its name with many of the measures contained within it destined to simplify compliance for certain taxpayers. This month's Tax Alert contains articles on a number of the measures in the Bill, while this article provides an overview.

Digital nomads

What is it

A tax change to ensure that someone coming here short-term doesn't trigger tax obligations for themselves or a foreign employer by working here – see our more detailed article for further information.

Thoughts

The increase in "flexible working", especially since COVID-19, has resulted in many employers introducing policies allowing employees to work remotely in other countries on a short-term basis. This type of policy can be complicated for employers to administer as each country will have different tax rules about when an individual or employer is obliged to comply with local tax rules.

Earlier this year the Government introduced a new "digital nomad visa" to make it easier for people to choose New Zealand as a working holiday destination. The Bill ensures that tax rules shouldn't be a barrier to people picking New Zealand as their destination of choice.

Normally tax rules will deem someone to be tax resident in New Zealand if they have been here for 183-days in a 12-month period. Under the proposals, where someone is here for longer (up to 275 days) with a visa and are working for an employer who doesn't have a connection with New Zealand (that is, the employee is working for their employer from their home country and isn't in New Zealand because the employer is running a business or expanding into New Zealand etc) there will be an exemption from New Zealand tax obligations for both the individual and their employer (including if the visitor to New Zealand is a director of a foreign company). This is a very pragmatic approach.

Foreign Investment Fund Rules

What is it

Introduction of new method for calculating FIF income for certain taxpayers – see our more detailed article for further information.

Thoughts

The FIF rules have long been unpopular with those who need to comply with them as they can essentially result in tax being applied to unrealised capital gains when investments are held in foreign shares. This issue was bought to a head in 2024 when NZIER produced a study "The place where talent does not want to live" which highlighted how New Zealand's tax policies were resulting in high net worth individuals leaving New Zealand after 4 years rather than making New Zealand their home (non-residents and certain returning New Zealanders can be eligible for a 4 year "transitional residence" tax exemption from the FIF rules).

In January 2025 the Inland Revenue undertook consultation on options to improve the FIF rules to stop this happening. The changes in the Tax Bill are the result of this consultation and follow on from an announcement by the Minister of Revenue in March.

The new rules will apply retrospectively from 1 April 2025 (this date is chosen as it was when many migrants who relocated to New Zealand during the COVID-19 pandemic were going to have their tax exemption expire). Under the proposals, certain taxpayers will be able to use a new "revenue account method" to calculate tax when shares have been sold, rather than paying tax on unrealised fluctuations in share values each year. This deals with issues where owners of unlisted businesses were leaving New Zealand because they couldn't fund New Zealand liabilities on unrealised gains.

The FIF rules are notoriously complex, so the ability to submit on draft legislation is welcome to ensure that the rules achieve their goal.

Employee Share Schemes

What is it

Allowing tax obligations to be deferred on illiquid shares – see our more detailed article for further information.

Thoughts

There was consultation earlier this year on issues related to how employee share schemes are taxed, particularly as to how they relate to start-up companies where often shares are illiquid and employees were unable to fund tax bills when they received shares from their employer.

The rules included in the Tax Bill are broader than originally proposed as they are not limited to start-ups. The key criterion is that the company must be unlisted (i.e. the shares are illiquid). Under the current rules a tax obligation arises on the difference between the value of the shares and the amount the employee paid for them when shares are received. Under the proposals, tax would only be crystalised at the time there is a liquidity event (such as selling the shares or the company becoming listed) – however the quid pro quo of deferring the tax bill is that the tax bill may be higher (i.e. if the value of shares has continued to rise between the date of acquisition and the liquidity event). These rules will be optional.

Sale of excess solar power

What is it

A tax exemption for individuals selling solar excess power into the grid.

Thoughts

Households who have made the move to install solar panels and who are routinely selling surplus electricity into the grid may be surprised to learn that technically that is probably taxable income to them.

Given the relatively small amounts involved, and the associated complexity of determining what costs are able to be deducted (as these need to be apportioned between the cost of generating electricity for home consumption vs sale into the grid), the pragmatic decision has been made to exempt the income from tax. This rule generally only applies to individuals but can apply to houses in family trusts in some instances. This is a sensible approach to keep things simple and to not have the thought of complying with complicated tax rules acting as a barrier to households selling surpluses into the grid.

Repeal of section 17GB of the Tax Administration Act

What is it

Repeal of information collection law.

Thoughts

Another controversial law, implemented under urgency with no consultation, is set for repeal. Section 17GB is most infamously known as the legislation which saw Inland Revenue undertaking "the wealth project", requiring detailed financial and personal information from high wealth individuals.

The section was introduced to give Inland Revenue even fulsome powers to collect any information it considered helpful for tax policy development; however, its actual use ran the risk of politicising Inland Revenue, so its repeal is welcome.

The repeal of this rule doesn't stop Inland Revenue collecting data using its other existing powers and more conventional measures. Inland Revenue has extensive powers to collect any information in relation to a person's tax position and compliance with existing tax laws. What the repeal of the rules means is that information which is irrelevant to a persons' tax positions is out of bounds – there was no restriction on what information could be collected under the law, instead it required that "a person must … provide any information that the Commissioner considers relevant for a purpose relating to the development of policy for the improvement or reform of the tax system." While the actual use of the provision has been limited, the legislation could have been used to procure any information.

Repeal of the trust disclosure rules

What is it

Repeal of compliance cost intensive rules.

Thoughts

When the previous Labour Government increased the top personal tax rate to 39% after the 2020 election, it surprised taxpayers by also implementing a complicated set of disclosure rules for trusts.

These were introduced to assess whether trusts were being used to mitigate the impact of the top personal tax rate. The trust disclosure rules came without consultation and were widely criticised by the tax community as being nonsensical, extraordinarily expensive to comply with, and it wasn't at all clear what purpose all the information would serve. The fact the disclosures came with 48 pages of detailed instructions tells you a lot about the rules.

Earlier this year Inland Revenue completed a post implementation review of the rules, which suggested some refinements. With the trustee tax rate having been increased to 39% as part of Budget 2023, the need for the disclosure rules fell away, and the Government has announced these rules will now be repealed.

The compliance costs for trustees were never able to be quantified but a survey estimated the average cost was between $784-$1,400 in the first year. With New Zealand having around 245,000 trusts, it is fair to say the compliance costs have been massive, and Inland Revenue would have allocated a lot of resources to collecting and processing the information (the administrative savings have not been quantified).

Part of the rationale for repealing the rules is that the Inland Revenue never needed special rules to collect the information, they already had sufficient powers to request information. It is expected that while the extensive trust disclosures will be going, there will still be some information which will need to be provided as part of the tax return process – hopefully information which is more streamlined and relevant.

Information sharing by way of Ministerial agreement

What is it

Introduction of an ability for Ministers to agree to Inland Revenue sharing information with other government agencies when the information can be used to:

- Determine eligibility for government assistance;
- Investigation of serious crime (those punishable by imprisonment for two or more years;
- Remove the financial benefit of crime.

Thoughts

The purpose of the information sharing is to create greater administrative efficiency across government. Currently the process of creating information sharing agreements can take 18 months or more. What can be shared has some limitations, including that the disclosure is reasonable and practical, it does not undermine the integrity of the tax system, it supports voluntary compliance and the Privacy Commissioner has been consulted. The Commissioner of Inland Revenue will be required to publish details of all information sharing agreements, which are still expected to take three to six months to put in place.

It's likely there will be concerns that this proposal gives the Inland Revenue too much power to share information without proper scrutiny. While the Privacy Commissioner must be consulted, the legislation doesn't require his views to be accepted. Significantly in designing the law, the Privacy Commissioner was consulted and considered the proposal was "unnecessary and disproportionate", the proposal also hasn't undergone any previous public consultation.

Investment Boost clarifications

What is it

Clarifications to ensure the Investment Boost legislation works as intended. Changes are:

- Making it clear that the ability to use the low value asset threshold ($1,000) is assessed based on the gross asset cost (i.e. before Investment Boost deductions are claimed);
- Ensuring the deduction is treated appropriately in situations where assets are transferred, such as amalgamations;
- Ensuring that when assets are transferred between associated persons, that the maximum depreciation cost base available to the acquiring entity is the gross asset cost (i.e. before Investment Boost deductions were claimed);
- Clarification of when an asset is "secondhand" and therefore not eligible for Investment Boost.

Thoughts

Investment Boost was the flagship tax announcement in Budget 2025. Because Budget announcements are generally developed in secret, there was no consultation prior to the announcement on Budget Day. Inevitably some minor issues were identified in the drafting of the legislation and the Bill contains minor amendments which are intended to ensure the legislation works as intended. All changes are retrospective back to 22 May 2025. It's great to see remedial changes being put through quickly as it is critical the legislation is correct.

The Bill commentary provides some examples which provide more clarity about when assets qualify for Investment Boost. There has been some confusion around assets like cars, which may have been used for test drives prior to sale; and whether property assets could be treated as trading stock for the purpose of the rules. The Bill attempts to make this clearer.

FBT v PAYE

What is it

New section in the Income Tax Act 2007 will give employers flexibility to pay FBT when an employee is reimbursed for expenditure which would be an unclassified benefit if it had been provided differently.

Thoughts

The PAYE v FBT distinction is one of the most vexxed areas of employment tax. No one wants to find out they've paid FBT when they should have paid PAYE because an employee paid for something and was reimbursed. The concept of "expenditure on account of an employee" is not well understood, but in essence under existing law if an employee is reimbursed for the cost of a benefit the reimbursement is subject to PAYE rather than FBT.

The proposal to provide optionality of which tax to pay should simplify compliance for many employers who may have been going out of their way ensure benefits were purchased in a manner allowing the FBT regime to apply. However, it is critical to understand that, as currently drafted, the legislation requires that tax must be paid, so the rule will not be available if the reimbursement is for a cost which is exempt from FBT (e.g. for employers who are able to use one of the exemptions from FBT).

Gift cards

What is it

Employers will be able to choose to treat gift cards as being subject to FBT rather than PAYE in most instances.

Thoughts

On 16 April 2025 Inland Revenue published a statement which concluded that "open loop cards" were subject to PAYE rather than FBT. This conclusion was contrary to what many employers were doing when providing gift cards to employees.

The change in the Bill is proposed to be retrospective to 16 April 2025 to ensure that employers who have been paying FBT are not subjected to PAYE assessments. Employers who prefer to tax gift cards through the PAYE regime can continue to do so. This is a good approach to solving an unexpected problem.

However, the proposed fix is not entirely without complication.

First, the Bill contains a rule which specifies that FBT will remain payable where a gift card is provided as a substitute for remuneration. This concept is not defined and is therefore adding uncertainty into the rules (as FBT is a tax on substitutes for remuneration). It is understood that this clause is intended to prevent a scenario where a substantial portion of cash remuneration is converted to gift cards in order to circumvent social assistance thresholds.

Second, the Bill is amending the definition of "unclassified benefit" to exclude gift cards, instead these will become a new category of fringe benefit with its own separate attribution / pooling class. Because gift cards are excluded from the definition of unclassified benefit, the de minimis rule will also no longer apply. This change was not commented on in the Bill Commentary so it is unclear whether this was deliberate or an oversight.

FBT remedials

What is it

Small tweaks to the FBT rules.

Thoughts

Following consultation earlier this year, many employers were expecting the Bill to include some fundamental reforms to how FBT applies to motor vehicles and unclassified benefits. Alas, despite the reforms having the potential to result in considerable compliance cost savings for employers there was not unanimous support for the proposals following consultation. Accordingly, the major reforms will hopefully undergo further consultation on refined proposals.

In the meantime, the Bill contains only a few minor tweaks (in addition to the FBT v PAYE and gift card changes explained above.

GST and unincorporated joint ventures

What is it

A more technical fix up to an issue in the GST rules.

Thoughts

This is something which Rt Hon Winston Peters announced in January and essentially corrects an interpretative issue with the GST rules where it was determined that a joint venture needed to be registered and accounting for GST on behalf of all members, which was counter to common practice in certain industries.

The rules are a sensible conclusion to an interpretative impasse and ensure that there is flexibility to get to the right GST answer.

GST record-keeping

What is it

Businesses who are selling things worth over $1,000 to non-businesses won't need to demand information from customers

Thoughts

The "Taxable Supply Information" (TSI) rules replaced the well understood "Tax Invoice" rules in 2023. It was inevitable that some issues would arise from the way the rules were changed. The new rules included a new information requirement that suppliers needed to hold TSI for all supplies. This has led to instances where private individuals felt pressured to supply personal details when making purchases of items costing over $1,000.

The removal of the requirement to collect data on unregistered customers is a sensible one, but could go further as inevitably some suppliers will instead have to ask customers if they are GST registered even in situations where a store is clearly supplying the consumer market.

Non-Resident Contracts Tax clarification

What is it

Two clarifications to the non-resident contractors tax (NRCT) rules, including that NRCT does not apply to software-as-a-service, platform-as-a-service and infrastructure-as-a-service contracts, except where infrastructure or people are physically in New Zealand.

Thoughts

The NRCT rules were designed a long time ago and have not kept pace with the changing ways in which goods and services are provided, particularly in relation to software. It is pleasing to see an amendment to the definition of "contract activity or service" to specifically exclude these software delivery methods.

Other remedials

What is it

A wide range of other remedial items are covered in the Bill including changes to:

- KiwiSaver
- Defined benefit schemes
- Research and Development Tax Incentive
- Cryptoassets
- Short-selling foreign shares
- Amounts received in trust by public or local authorities
- Increases to the cash basis person rules in the financial arrangements rules
- Unclaimed money rules

Thoughts

As usual, the annual omnibus tax bill contains a considerable number of changes to tax laws. It is pleasing to see a number of remedial issues being cleared up quickly.

As of the time of writing the Bill has not received its first reading in Parliament and has not yet been referred to the Finance and Expenditure Committee to call for public submissions. This is expected to occur in later in September. As submissions are generally due fairly quickly, it pays to get started now rather than waiting until a due date is set.

For more information on the Bill please contact your usual Deloitte advisor.

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Revenue Account Method
Government's opening move or missed opportunity?

By Joe Sothcott and Sam Mathews

The Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill (the Bill) was introduced late last month, and as previously announced by the Minister of Revenue, one of the headline features of the Bill was the introduction of the Revenue Account Method (RAM) to the Foreign Investment Fund (FIF) rules.

The RAM specifically targets recent migrants to New Zealand as well as some returning expats. This article explores the mechanics of the RAM, which is proposed to take effect retrospectively from 1 April 2025.

Issues

In our February and April 2025 articles, we outlined the policy rationale for introducing the RAM into the FIF regime. This article focuses on the practical mechanics of the RAM, as proposed in the Bill, and does not revisit the broader FIF framework. That said, it is important to keep in mind the RAM is designed to address three issues faced by migrants under the current FIF rules:

1. **Liquidity Constraints**
   Tax is often imposed on deemed income from illiquid assets (e.g., unlisted shares), creating cashflow challenges in funding the tax liability.
2. **Double Taxation Risk**
   Because FIF tax is based on deemed income rather than actual realisation, it may not qualify for foreign tax credits in the investor's home jurisdiction (e.g., the U.S.), potentially resulting in double taxation.
3. **Valuation Difficulties**
   Existing FIF methods often require market valuations on entry to the FIF rules, which can be costly or impractical—especially for unlisted shares.

Who can use the RAM

The RAM is targeted at recent migrants and returning New Zealanders who have been non-resident for a significant period. To qualify, an individual must become a New Zealand tax resident on or after 1 April 2024, must not be a transitional resident, and must have been non-resident for at least five consecutive years prior to arrival.

Family trusts may also qualify if the principal settlor meets the same criteria.

What investments qualify

The RAM applies only to foreign shares acquired before the taxpayer becomes a New Zealand resident (including before transitional residence begins). To qualify, the shares must:

- Be unlisted (not traded on any stock exchange);
- Not have a redemption facility at market value; and
- Not derive 80% or more of their value from listed shares or shares with redemption facilities.

For example, an unlisted index fund tracking the S&P 500 would not qualify, as its entire value is derived from listed shares.

Shares acquired through arrangements entered into before becoming a resident (e.g. contractual follow-on investments or shares acquired under certain employee share schemes) may still qualify, even if the acquisition occurs later.

The extended RAM

A special provision known as the extended RAM allows broader access for individuals taxed in another country based on citizenship or permanent residency, rather than tax residence. This is primarily aimed at US citizens and Green Card holders, but could also apply to individuals from other jurisdictions with similar tax systems. If eligible, the taxpayer may apply the RAM to all foreign shares, including listed shares and those with redemption facilities.

To qualify for the extended RAM, the taxpayer must be subject to foreign tax on the disposal of shares due to citizenship or residency status, there must be concurrent taxation (i.e., both countries broadly tax the same income even if there is a special exemption regime in that other country for a particular sale of their shares), and New Zealand must have a double tax agreement (DTA) with the foreign country (noting New Zealand does have a DTA with the US).

How the RAM calculation works

Under the RAM, realised gains on the disposal of eligible FIF interests are discounted by 30% before being taxed. Only 70% of the gain is included in taxable income and taxed at the taxpayer's marginal rate. Losses can only offset gains from other RAM-applied disposals, and excess losses may be carried forward.

Dividends are taxed in full at the marginal rate, without any discount.

Example

A taxpayer receives a $500 dividend and sells an eligible FIF interest for a $10,000 gain. With a marginal tax rate of 39%, the taxable income is $500 + ($10,000 × 70%) = $7,500. The resulting tax liability is $7,500 × 39% = $2,925.

Electing into the RAM

The RAM is elective, and the election must be made in the first income year in which the taxpayer becomes eligible and the FIF rules apply. Once elected, RAM applies to all eligible shares held by the taxpayer (i.e. on a portfolio basis). FIF interests that do not qualify must be taxed under one of the other FIF methods.

Taxpayers may opt out of the RAM, but once they do, they cannot re-enter the regime in future years. If they do, a deemed realisation event arises.

Determining the cost base

The cost base is the starting point for calculating gains or losses under the RAM. The default method is to use the market value of the share on the date the RAM is first applied. The valuation must be completed by the later of:

- 12 months from the date of acquisition or the date the FIF rules begin to apply; or
- The due date of the taxpayer's first income tax return in which the RAM is applied.

Recognising the difficulties of valuing unlisted shares, Inland Revenue offers an alternative: time-based apportionment. This method is available if a valuation can only be obtained through an independent valuer and the taxpayer chooses not to obtain one. Under this approach, the total gain or loss is spread evenly over the holding period, and only the portion attributable to the period during which the taxpayer was a New Zealand tax resident (excluding transitional residence) is taxed.

There are particular rules that can apply to adjust the cost base where a person who previously applied the RAM has left and then returned to New Zealand.

Deferred realisation tax

A deemed disposal occurs when a taxpayer leaves New Zealand. For tax purposes, all RAM-eligible shares are treated as sold at market value, and any gains or losses are taxed. However, this deemed disposal is disregarded if the shares are not sold within three years of departure or if the taxpayer returns to New Zealand within that period without selling the interests.

Losing Eligibility

Deemed disposals also occur if the taxpayer opts out of the RAM, or if a share loses eligibility—for example, by becoming listed. When a taxpayer exits the extended RAM, any shares not eligible under the standard RAM rules are also deemed to be disposed of.

Deloitte's view

Deloitte supports the introduction of the RAM as a positive (baby) step toward amending the FIF rules to lower the tax barriers for migrants and returning expats to come to and stay in New Zealand. However, in its current form, we think RAM is too narrowly targeted to achieve this and the Government's broader goal of encouraging investment in New Zealand.

Limiting eligibility to recent migrants and excluding listed shares means only a small group can benefit, and even those that can may face increased compliance costs to do so. There is a much wider population that we should want to remove the tax barrier to living in New Zealand for, including migrants that moved to New Zealand before the eligibility date, expats who might not have met the five-year non-resident test, as well as ordinary New Zealanders who might be weighing up their next moves.

Deloitte believes that all New Zealand tax residents should also be able to opt in and it should be available for all shares (including listed shares) - especially since RAM, even with its 30% discount, is likely to generate more revenue for the Government than current FIF methods over time, albeit deferred to a realisation event.

For example, an investor who invested $100,000 in an exchange traded fund that tracked the S&P 500 five years ago would face a tax liability of around $13,000 under the Fair Dividend Rate (FDR) method, compared to approximately $30,000 under RAM. This pattern holds even with more modest returns, given that global equity markets typically outperform the maximum 5% FDR rate.

Narrowing the eligibility rules, both in terms of who the rules apply to and what shares the rules apply to, and prescriptive entry rules also results in unnecessary complexity in the rules, including to cover scenarios where investors or shares lose eligibility.

Other potential issues with the proposed rules include:

- A 30% discount can result in a higher effective tax rate than the rate a number of comparable countries would impose on their residents;
- The rules do not appear to apply to FIF interests that are held via controlled foreign companies (CFCs), which is a common structure for migrants;
- The RAM calculations are performed in NZD, meaning those applying the rules will need to calculate gains/losses in NZD and therefore be subject to NZD foreign exchange movements (with a different calculation potentially required in the person's home country, potentially resulting in double taxation issues);
- The election requirements appear to imply that the RAM cannot be accessed if the first New Zealand tax return is filed late; and
- The application date of the rules require taxpayers to prepare their 2025 tax returns under existing FIF methods (noting that, depending on the circumstances, there may not actually be any FIF income in this period) and then potentially move to the RAM for the 2026 and later income years.

Deloitte recommends expanding RAM to include New Zealand residents and listed shares, and addressing other key tax barriers such as the financial arrangement (FA) and CFC rules. We also support reviewing the outdated $50,000 de minimis threshold (unchanged since 2000) and broadening access to the attributable FIF income method, which applies an active income exemption to certain foreign investments. Changes to these areas are key to removing the potential New Zealand tax barriers.

While the proposed changes to the FIF rules in the Bill might be a useful option for certain people in certain circumstances, they, put bluntly, do not go far enough, or quickly enough, to materially impact the stated policy intent. We would encourage those that may be impacted by the rules, or are currently not covered by the rules and feel they should be, to submit on the proposals in the Bill to ensure their voices are heard.

Next Steps

The RAM proposals are detailed and this article does not cover every aspect. If you have questions or would like to discuss the proposals, please contact your usual Deloitte advisor.

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Timing is everything Proposed changes to the timing of taxation for employee share schemes

By Mila Robertson and Ian Fay

For employees in unlisted companies, being provided with shares in their employer can be like being handed a gift that they can't unwrap yet, but must pay tax on now.

It's been a longstanding issue – how can unlisted companies remunerate employees in shares, when their employees have no ability to sell the shares to pay the tax due on the value of the benefit (being the difference between market value and the amount paid by the employee). Currently the rule is that when shares are provided to the employee with no material conditions, they are taxable to the employee and the employee must pay tax on the shares (how the shares are valued is another complication). If the company is an unlisted company, this often means that employees have no ability to sell a portion of the shares to cover this tax and must make other arrangements to meet their obligations.

While many companies have found ways around this, often by utilising option or restricted share unit (RSU) schemes that become exercisable or vest immediately prior to a liquidity event, it means that employees usually can't have actual share ownership until this future liquidity event.

This led to concerns that employers were missing out on the benefit of employees being shareholders, i.e. alignment in goals between the company and the employee, including profitability or growth. Having a right to something in the future doesn't have the same intrinsic feeling of ownership when shares are held directly by an employee.

To assist with this, earlier in 2025, Inland Revenue released for consultation a proposal that these rules should be relaxed for startup entities.

While this was a great start, a number of submitters on the consultation, including Deloitte, recommended that the proposed changes should be widened to apply to all unlisted companies given they often face the same liquidity constraints. This approach would also have the benefit of avoiding boundary issues such as defining when something was a "startup".

The Government took these submissions onboard and the August Bill has introduced the concept of Employee Deferred Shares (EDS). If implemented, it will mean that shares can be provided to employees, with the taxing point deferred until a liquidity event occurs. This will also defer the deduction to the employer, so that symmetry in the treatment is achieved.

A liquidity event would be considered to be the:

- listing of the company;
- sale or cancellation of the shares; or
- payment of a dividend in respect of the shares.

Under the changes in the Bill, the employer will have the power of choosing that the shares should be considered EDS, and will be required to notify both the Inland Revenue and the employee that it is an EDS at the time the shares are provided to the employee.

If passed as proposed, these new rules would apply from 1 April 2026.

The trade off

The benefit of the EDS proposal is the deferral of the payment of the tax due by an employee to a future date (when the shares become liquid).

The flipside however is that any increase in the share price, from the time the employees are provided with the shares and when they subsequently become liquid, will be taxable.

Employers will need to consider carefully if it is more valuable for their employees to receive the shares and pay tax at an earlier date, or if it is better for the taxing point of the shares to be deferred until a liquidity event, where employees should have cash available to pay the tax.

A risk with the employee paying tax when they receive the shares is that ultimately, they may realise less value on the liquidity event than they pay in tax when receiving the shares. This will be something that needs to be weighed up based on the company's circumstances and their employees' appetite to take this risk (if the company does not fund the employees' tax). Another consideration for employers will be any potential impact of their deduction for the issue/provision of the shares being deferred. For example, if the employer is in a tax loss position, a deduction may be of limited immediate value - unless they can benefit from the losses in some way (e.g. under the R&D Tax Loss Credit regime).

Please get in touch with your usual Deloitte advisor if you would like to understand how these proposed changes may be able to benefit your business and employees.

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An update on remote working in New Zealand

Sun, Sand [and no Tax!]

By Stephen Walker and Ilaisaane Soakai

Recent amendments to New Zealand immigration laws, effective from 27 January 2025, marked a significant shift to attract international tourists to New Zealand by permitting visitor visa holders to work remotely for overseas employers or for their clients during their stay.

While this signalled New Zealand's openness to the digital nomad community, some practical tax limitations have remained meaning that many visitors hesitate (to the extent they are aware of the issues) to extend their stay beyond those permitted by existing tax rules to make full use of their visitor visa. Where there is a lack of awareness around existing tax rules, there is almost certainly non-compliance resulting in an uneven playing field where those individuals and employers choosing to be compliant are placed at a competitive disadvantage compared to those that don't.

Recognising this barrier, the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill proposes updates to the tax treatment of certain non-resident visitors, which are scheduled to take effect from 1 April 2026 (once enacted).

These changes are aimed at alleviating the tax and compliance burdens for remote workers, and their foreign employers and/or associates, when they are temporarily working from New Zealand.

Why change

Under current rules, income earned whilst remote working in New Zealand may be exempt from taxation if the individual qualifies for either the short-term business traveller exemption (up to 92 days in 12 months) or the double tax agreement (DTA) exemption (up to 183 days in 12 months) if travelling from a DTA country. However, if visiting for more than these periods, which the new visitor visa allows, income derived from remote working in New Zealand is likely subject to tax here. For more information on the taxation of remote working income under the existing tax law, see our March 2025 article "Remote working in New Zealand: Sun, sand, and tax!".

Proposed Amendment

The current proposal is to:

1. Exclude individuals classified as "non-resident visitors" from the application of the 183-day tax residency test (providing they are in New Zealand legally);
2. Exempt New Zealand sourced employment and professional services income of a non-resident visitor from New Zealand income tax;
3. Modify the definition of permanent establishment (PE) to exclude the activities of a non-resident visitor;
4. Modify the tests for corporate tax residency to exclude the activities of a non-resident visitor under the centre of management and director control tests; and,
5. Make GST registration optional for a non-resident visitor.

Non-resident visitors would be treated as non-residents for New Zealand income tax purposes provided their stay does not exceed 275 days in any 18-month period, and they meet all the following criteria:

- Immediately before becoming a non-resident visitor they are neither a tax resident nor a transitional resident of New Zealand.
- They do not undertake work in New Zealand that is for a New Zealand resident or a branch of a non-resident, offering goods or services to New Zealand clients, or which requires the individual to be present in New Zealand.
- They are not receiving family scheme entitlements.
- They are lawfully present in New Zealand under the Immigration Act.
- They remain a tax resident of a foreign jurisdiction with substantially similar tax to New Zealand income tax.

It is also worth noting that there are no changes to the permanent place of abode individual tax residency test, which will continue to apply as the overriding tax residency test and cause a non-resident visitor to become tax resident from the moment they acquire one in New Zealand.

Although the proposed amendments have been prompted by and targeted at the new visitor visa, the proposed legislation, as it is currently drafted, may also have broader application to others including New Zealand citizens and other visa holders who meet the criteria for non-resident visitor status.

For example, New Zealand citizens who are tax non-residents and returning to New Zealand for an extended family holiday, or to temporarily assist elderly relatives, may qualify to be non-resident visitors as defined, as could those looking to come to New Zealand for extended periods of time as holders of residency visas obtained under the current Active Investor Plus or previous Investor Plus visa pathways.

Impacts of the proposed amendments

The proposed rules remove much of the uncertainty and compliance burden currently faced by digital nomads spending time in New Zealand. By effectively switching off the 183-day tax residency test for those who qualify as non-resident visitors, the new rules ensure that individuals making full use of their visitor visa are not unexpectedly classified as tax residents and taxed on their income simply because the cumulative number of days in New Zealand permitted by the visitor visa exceeds the current days thresholds that apply for tax purposes.

From an individual perspective it is helpful that if they decide to stay longer in New Zealand or their non-resident visitor status ends, or their tax residency status in their home country ceases, they will only have New Zealand tax obligations on a go forward basis (unless they breach their visa conditions and are present in New Zealand illegally, in which case the current 183-day tax residency test would apply retrospectively). This clarity means that individuals, and their overseas employers, can more reliably and easily assess their New Zealand tax obligations in advance and avoid the risk of retrospective tax liabilities and compliance costs.

Non-resident visitors would also still be eligible for the transitional residency exemption if they go on to become tax resident in New Zealand and meet all other qualifying conditions.

From an employer risk perspective, it is also helpful that these amendments seek to clarify that the presence of remote workers in New Zealand can be ignored for corporate tax, and employment tax risk and compliance purposes where they are a non-resident visitor.

As with all changes, there are a few nuances to work through in terms of the practical application of some of these changes to individuals based on their specific facts and circumstances but given this government's objective of wanting to make it easier and more attractive for remote workers and digital nomads to temporarily work from New Zealand, these proposed tax changes go a long way in achieving this.

If you would like to know more about these changes and how they could impact you and/or your organisation, please contact your usual Deloitte advisor.

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Shortfall penalties

The devil is in the detail

By Amy Sexton and Robyn Walker

The tax technical team at Inland Revenue's Tax Counsel Office (TCO) has been very active publishing a number of draft consultation documents recently.

As part of that flood of consultation items the TCO published five draft interpretation statements, accompanied by five draft fact sheets, (the draft IS) at the end of August. These documents specifically address shortfall penalties:

- PUB00498 Shortfall penalty for not taking reasonable care
- PUB00499 Shortfall penalty for taking an unacceptable tax position
- PUB00500a Shortfall penalty for gross carelessness
- PUB00500b Shortfall penalties – requirements for a "tax position" and a "tax shortfall"
- PUB00500c Shortfall penalties – reductions and other matters

The first three draft IS (PUB00498-PUB00500a) represent a long-anticipated update of existing shortfall penalty guidance, originally published way back in 2004 and 2005. While the underlying definitions of each shortfall penalty remains unchanged, the draft IS have been revised to incorporate recent case law and reflect specific legislative changes.

The final two draft IS (PUB00500b and PUB00500c) are welcome expanded guidance on the often misunderstood concepts of 'tax position', 'tax shortfall' and the criteria for shortfall penalty reductions.

Given the recent increase in Inland Revenue investigation activity, the release of new, clear, and accessible guidance documents on shortfall penalties is both timely and welcome.

But what are shortfall penalties?

To clarify, shortfall penalties are imposed by Inland Revenue when a taxpayer's tax position is incorrect and results in insufficient tax being paid (creating a tax shortfall). Further detail on what constitutes a tax position and a tax shortfall will be discussed later in the article.

Not taking reasonable care (NTRC)

PUB000498 outlines that reasonable care involves taking the actions that a 'reasonable person' would take in the given circumstance (commonly referred to as the 'reasonable person test'). This is an objective assessment, meaning it is not relevant whether a taxpayer believes they have exercised sufficient care.

Taxpayers are expected to take appropriate steps to confirm the accuracy of their tax positions, maintain adequate tax records, and generally make a genuine effort to comply with tax law. In most instances, relying on the actions or advice of a tax advisor is considered to be taking reasonable care, although there are specific exceptions to this. The draft IS provides several useful examples and includes a clear flowchart illustrating how the NTRC shortfall penalty is applied.

Unacceptable tax position (UTP)

PUB00499 addresses the UTP shortfall penalty and clarifies that an 'unacceptable tax position' is one that is not "about as likely as not to be correct". While this phrase may initially seem confusing, the draft IS breaks it down, explaining that a tax position is "about as likely as not to be correct" if:

- even though wrong, it can be argued on rational grounds to be right
- it is one on which "reasonable minds could differ". There must be room for a real and rational difference of opinions;
- it has about an equal chance of being correct.

As with NTRC, UTP is assessed objectively. It is not surprising that there are a number of tax cases examining the meaning of "about as likely as not to be correct", and the draft IS provides a detailed legal analysis of this concept. Importantly, a taxpayer who is not liable for a UTP shortfall penalty may still be liable for an NTRC shortfall penalty. The draft IS includes a range of examples illustrating different taxpayer scenarios.

Gross carelessness (GC)

PUB00500a explains the GC shortfall penalty. GC means to doing (or not doing) something in a way that, in all circumstances, suggests or implies complete or a high level disregard for the consequences. This standard involves more than simple oversight or a lack of reasonable care. The conduct must create a substantial risk of a tax shortfall, which a reasonable person in the taxpayer's situation would have anticipated. Intentional behaviour is not a factor in determining GC.

Similar to UTP, the draft IS provides a detailed analysis of the numerous tax cases concerning the GC shortfall penalty, along with several taxpayer scenario examples to offer guidance.

The table below summaries these three shortfall penalties:

Shortfall Penalty	Penalty (% of tax shortfall)	Tax types includes	Special rules
Not taking reasonable care	20%	Income tax*, GST	Capped at $50,000 if certain requirements met.
Unacceptable tax position	20%	Income tax** MNE top up tax (1 January 2027)	Tax shortfall must be more than $50,000 and 1% of the taxpayer's total tax figure for the relevant return period. Capped at $50,000 if certain requirements met.
Gross carelessness	40%	Income tax*, GST	

* Income tax includes withholding-type taxes treated as income tax (e.g. PAYE, FBT, RWT).
** UTP specifically excludes withholding-type taxes such as PAYE, FBT and RWT, as well as GST.

There are two other common shortfall penalties that can be imposed by the Inland Revenue – abusive tax position and evasion - and the TCO have advised that they are currently working on new guidance documents that would be consulted on in the near future.

Tax position and tax shortfall

The terms 'tax position' and 'tax shortfall' are frequently used by Inland Revenue and tax advisors, yet they are often not fully understood. It is encouraging to see Inland Revenue taking a proactive approach by publishing specific guidance on this matter in PUB00500b, as accurately interpreting these terms is essential for a range of tax matters, including (but not limited to) voluntary disclosures, shortfall penalties, and tax pooling.

A taxpayer takes a tax position when they take a position or approach under a tax law, as specifically defined in section 3(1) of the Tax Administration Act 1993. This section outlines in detail what constitute a tax position.

For most taxpayers, this may include (but is not limited to):

- having a liability for an amount of tax, or the payment of an amount of tax; or
- have an obligation to deduct or withhold an amount of tax; or
- filing, or not filing, a tax return; or
- the derivation of an amount of income, or exempt income or capital gain; or
- the incurring, allowing, denying as a deduction an amount of expenditure or loss; or
- the estimation of provision tax.

A taxpayer can take a tax position knowingly, intentionally or involuntarily by:

- claiming or not claiming, or returning or not returning, a tax position; or
- being placed in a tax position when something is done on their behalf.

A tax shortfall occurs when a taxpayer's tax position is incorrect, leading to insufficient tax being paid, or an overstatement of a tax benefit, credit or advantage. Typically, a tax shortfall represents the difference between the tax effect of the taxpayer's position and the correct position for a return period.

Determining whether a tax shortfall exists, and calculating it, can be complicated. The draft IS includes several examples of taxpayer scenarios to assist with interpreting and applying the guidance.

Shortfall penalty reductions, assessment, payment due dates and disputes

The final draft IS, PUB00500c, outlines the various reductions that may be applied to shortfall penalties, as well as how different shortfall penalties interact. This area can be complex and requires careful consideration. The draft IS includes examples and several summary tables to clarify how reductions may be applied and what occurs when a taxpayer is liable for more than one shortfall penalty.

Additionally, the draft IS addresses how Inland Revenue assesses and amends these penalties, the due dates and payment requirements, and the process for disputing a shortfall penalty if a taxpayer disagrees with it.

While these updated and new guidance documents are intended to provide clear and accessible information for taxpayers, shortfall penalties remain a complex aspect of tax administration, with several potential challenges. If you believe your tax position may be incorrect and are considering making a voluntary disclosure, we recommend contacting your usual Deloitte advisor to discuss the process and possible outcomes before approaching Inland Revenue.

The draft IS are open for public consultation until 31 October 2025.

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End of the row

Tax considerations when concluding a farmland sale or lease

By Andrea Scatchard and Renée Nicholson

In August 2025, Inland Revenue released two draft Questions We've Been Asked (QWBA) documents for public consultation. These QWBAs address specific tax matters within the farming and horticultural space. Our experience shows that there can be a lack of understanding regarding how the specific tax rules apply to farming and horticultural businesses, which can result in tax returns being completed incorrectly and sale and purchase or lease agreements not being drafted to give the optimal tax outcomes.

For context, farming specific tax rules allow deductions in two different ways:

- An immediate deduction for certain land development related costs that would otherwise be considered capital in nature; and
- A specific regime for amortising other costs that are capitalised, with prescribed rates set under the legislation. Importantly, these amortisation rules sit outside the regular tax depreciation rules.

While the draft QWBAs specifically relate to farming and horticultural operations, similar rules apply for forestry and aquaculture businesses.

PUB00491: End of Lease

The first QWBA (PUB00491) discusses whether a farmer who leases land can deduct the tax book value of horticultural plants at the end of a farming lease.

Under New Zealand legislation, if a farmer leases land for the purposes of farming and plants horticultural plants (e.g. vines, trees or canes), they can claim a "depreciation-like" amortisation deduction on these assets. However, in the year that the lease ends and the land returns to the landowner, the lessee is no longer actively farming under the lease and therefore will not be able to claim a final deduction in the year the lease finishes – either for the current year amortisation or for the remaining book value of the plants.

The right to claim ongoing deductions for the remaining value of the plants transfers from the lessee to the landowner, provided the landowner continues the farming operation with the plants. However, to be entitled to claim the deduction going forward, the landowner must obtain the lessee's closing tax book value of the plants. Therefore, it is important for the parties to agree on sharing information about the plant values to ensure a smooth handover of tax entitlements.

The QWBA also discusses the situation where horticultural plants are destroyed or removed. Normally a deduction is allowed for the remaining book value of the plants removed. However again this is restricted if the lease of the land ends.

We recommend obtaining professional advice in this context to analyse the specific circumstances of the lease and appropriate tax treatment.

PUB00492: Purchase Price Allocation

The second QWBA (PUB00492) examines whether the purchase price allocation (PPA) rules impact the tax book value of farmland improvements and listed horticultural plants acquired by the purchaser. These items are subject to amortisation deductions outside of the normal depreciation rules.

Under the PPA rules, which were introduced for the disposal of property entered into after 30 June 2021, the parties will generally agree the allocation of total value across the specified asset categories, which then sets the future deductions available for the purchaser.

Unamortised farm expenditure is not one of the specified asset categories, leading to uncertainty of how this should be disclosed in a sale and purchase agreement. PUB00492 makes it clear that in the event that the parties agree on a value for unamortised development expenditure, this will not override the values that transfer to the purchaser under the specific farming/horticultural rules for tax.

When farmland improvements and qualifying horticultural plants are sold and the purchaser will continue farming on the property, they must use the vendor's tax book values for these assets as their own starting point for future tax deductions, even if a higher value is noted in the sale and purchase agreement. The vendor is not able to claim a deduction for these costs in the year of disposal.

It is recommended that all purchasers entering farmland transactions ensure there is a contractual obligation for the vendor to provide the relevant tax book values to ensure the purchaser can claim tax deductions post-acquisition.

Additional considerations

These QWBAs also provide a timely reminder of some other tax considerations to think about when buying or selling farmland.

Depreciation and Depreciation Recovery Income

While there can be no gain or loss on the disposal of farm development expenditure, the purchase price allocation will feed into the tax disposal calculations for other assets. This could result in taxable depreciation recovery, or a deductible loss on disposal (except on buildings).

In addition, while most commercial are now subject to a 0% depreciation rate again, effective from the 2024-25 income year, some farm buildings have an estimated useful life of less than 50 years and can remain depreciable. This makes it important to carefully review the types of assets acquired to ensure tax depreciation is correctly calculated.

Investment Boost

Recently, the New Zealand Government introduced the Investment Boost regime which allows for an immediate upfront deduction of 20% of the cost of new investment assets, which includes improvements to farming, horticultural or forestry land where the costs are incurred on or after 22 May 2025. Further detail on the Investment Boost can be found in our June 2025 Tax Alert article.

GST Implications

Most farmland sales will be zero-rated for GST, because both the vendor and purchaser will be GST registered and carrying on GST taxable activities.

However where there is a dwelling on the property, as is the case with many farm sales, the GST position can be quite complicated as dwellings are most often exempt from GST.

Specialist advice should be obtained before signing sale and purchase agreements to ensure that the GST implications are understood and appropriately factored into the agreed transaction value.

Lowest Price Clause

Property sale and purchase agreements often include a lowest price clause. This can be relevant where there is a deferral between the time of transfer of the property and payment of the consideration. Where such a deferral exists, the financial arrangement tax rules can impute an interest component relating to the period of deferral, which would ordinarily be taxable income to the vendor.

A lowest price clause references the lowest price that the parties would have agreed upon if full consideration was paid at the time that the first rights in the property were transferred. Where this lowest price equals the consideration payable, no interest component should be imputed into the agreement.

Specialist advice should be sought where there is a deferral in payment of consideration under a sale and purchase agreement to ensure that the tax implications are understood and appropriately dealt with in the agreement.

Next Steps

Both draft QWBAs are currently up for public consultation until 15 September 2025. If you would like to discuss these further, or make a submission, please contact your usual Deloitte adviser.

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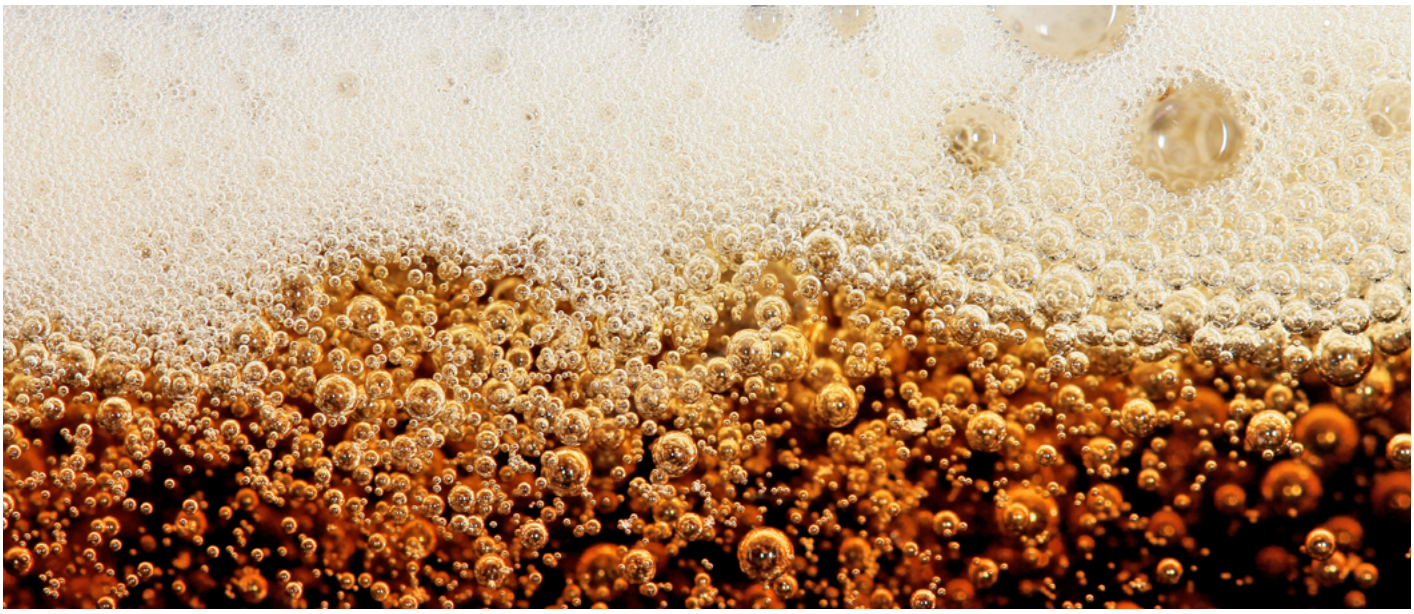
Royalty or not?
What New Zealand businesses need to know about the PepsiCo case

By Bart de Gouw, Liam O'Brien and Hamish Butterworth-Snell



In August 2025 the High Court of Australia (HCA) handed down its decision (by a 4-3 majority) siding with the taxpayer in the long running "PepsiCo case" (Commissioner of Taxation v PepsiCo, Inc [2025] HCA 30). This decision has settled a long-standing dispute concerning the application of royalty withholding tax and the Australian diverted profits tax (DPT). The case has attracted significant worldwide attention due to its implications for cross-border arrangements and the treatment of intellectual property in commercial contracts.

Implications for New Zealand businesses

This case is relevant to New Zealand groups with Australian subsidiaries (or broader business relationships with third parties in Australia), and these groups should take note of the HCA's judgement. The decision provides a judicial framework for assessing the character of payments. It also highlights the importance of determining the objective characterisation of the totality of the arrangements between the parties, serving as a warning against adopting a narrow or overly focused view of isolated clauses or promises exchanged between the parties.

Given the way that the case was resolved in the two judgements, and the significantly different positions that were taken on the objective characterisation of the arrangements, it is not clear to what extent this case will ultimately be taken to have generated significant principles of wider application to royalty issues or is confirmed to its specific and "unique" facts.

It is anticipated that the Australian Taxation Office (ATO) will respond to the PepsiCo decision as it has done previously via a decision impact statement.

The technology industry in New Zealand has been particularly interested in the outcome of this case given the ATO position in the draft Taxation Ruling TR 2024/D1 (TR 2024/D1) regarding when royalty withholding tax will apply in arrangements involving an Australian software reseller/distributor. Following the PepsiCo decision, the ATO stated that it is "currently considering this decision including any broader impact it may have on the reasoning set out" in the draft software ruling. There is no confirmed timeline for the finalisation of the draft ruling.

In addition, this case and the ATO ruling are likely to be of relevance as Inland Revenue continues to work on updating its interpretation guidance regarding the income tax treatment (under New Zealand domestic law) of payments made from New Zealand to non-resident suppliers of computer software (PUB00266 in the Public Guidance work programme 2025-26 August 2025). Although Inland Revenue has not made any public statements, we understand from informal discussions that they do not hold the same view as that published by the ATO in TR 2024/D1.

The case

A background of case, the tax issues and the earlier court decisions can be found in our July 2024 Tax Alert article.

2025 HCA decision

On 13 August 2025, the HCA found (with a 4-3 majority finding) in favour of the taxpayer that no royalty withholding tax) (RWHT) nor DPT applied. The HCA decided on two broad issues (collectively "the grounds")- two grounds related to the RWHT issue and the third ground related to the DPT issue:

- **Ground 1:** Did payments made by SAPL to PepsiCo Beverage Singapore Pty Ltd (PBS) under agreements to bottle and sell PepsiCo branded drinks include an amount paid "as consideration for" the use of intellectual property, as defined as a "royalty" in section 6(1) of the Income Tax Assessment Act 1936 (ITAA 1936)?
- **Ground 2:** If the answer to Ground 1 is "yes", was the royalty component of the payments income "derived" by and "paid to" PepsiCo under section 128B(2B) of the ITAA 1936, such that withholding tax was payable under section 128B(5A) of the ITAA 1936?
- **Ground 3:** In the event that PepsiCo was not liable to withholding tax, was it instead liable to DPT under Part IVA of the ITAA 1936?

The findings of the majority (Gordon, Edelman, Steward, and Gleeson JJ) and minority (Gageler CJ, Jagot, and Beech-Jones JJ) is summarised below, however for a full analysis of the majority's finding and as well as insights from Deloitte Australia, please refer to this Deloitte Australia tax@hand article.

	Majority	Minority
Ground 1	No	Yes
Ground 2	No	No
Ground 3	No	Yes

Final thoughts

The HCA's decision in PepsiCo provides valuable insights into the treatment of payments under cross-border arrangements in an Australia-New Zealand context. For New Zealand businesses, especially those operating in the technology industry, this is a timely opportunity to revisit existing arrangements with Australian subsidiaries to assess whether any modifications are required to those arrangements. If you have any questions about how this decision may affect your arrangements or broader tax positions, please contact your usual Deloitte advisor.

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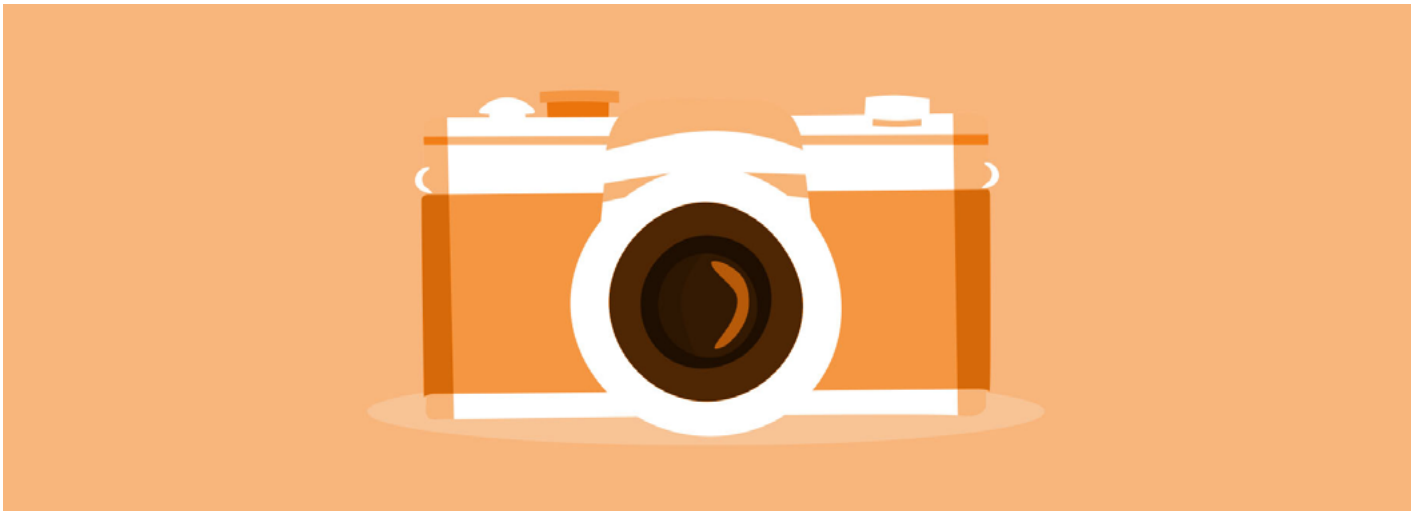
Snapshot of recent developments



Tax legislation and Policy Announcements

FBT prescribed investor rate decreases

On 5 August 2025, Inland Revenue announced that the prescribed rate used to calculate FBT on low-interest, employment-related loans has decreased from 7.38% to 6.67%. This decrease applies from 1 July 2025.

Information releases

On 12 August 2025, Inland Revenue published Information releases on the following:

- Income Tax (Deemed Rate of Return on Attributing Interests in Foreign Investment Funds, 2024–25 Income Year) Order 2025
- Income Tax (Fringe Benefit Tax, Interest on Loans) Amendment Regulations (No 2) 2025

Inland Revenue Statements and Guidance

Interpretation Statement: Whether money or property received by New Zealand tax residents from overseas is income from a foreign trust

On 7 August 2025, Inland Revenue issued 25/18: Income tax – Whether money or property received by New Zealand tax residents from overseas is income from a foreign trust. This interpretation statement considers the income tax treatment of amounts of money or property that NZ tax residents receive from a person overseas, including through inheritance. It addresses how to determine whether the person who transfers the money or property is a trustee of a trust and when the resident taxpayer has derived beneficiary income or a taxable distribution from a foreign trust. It replaces IS 19/04: Income tax – distributions from foreign trusts. Inland Revenue have also published an accompanying fact sheet.

COVID-19 fraud sends former Chartered Accountant to prison

On 7 August 2025, Inland Revenue advised a former Chartered Accountant was jailed for 5 years 11 months after pleading guilty to 29 charges including Wage Subsidy and Small Business Cashflow Scheme fraud, and money laundering. The charges were jointly brought by Inland Revenue and the Ministry of Social Development.

PUB00476: GST – Taxable activity (re-consultation)

On 11 August 2025, Inland Revenue issued a re-consultation on PUB00476: GST – Taxable activity. As a result of the number of submissions received on the first exposure draft and the additions made to the draft Interpretation Statement as a result, particularly the increase in the number of examples, Inland Revenue is seeking further feedback. Submissions close 8 September 2025.

Draft Questions We've Been Asked: Public private partnership projects and business continuity test for losses

On 11 August 2025, Inland Revenue issued PUB00521: Income tax – Public private partnership projects and business continuity test for losses. It concludes that a change from the Design & Construction Phase to the Operating & Maintenance Phase could be a "major change" in the nature of a contractor's business activities for the purpose of the business continuity test. However, any "major change" will be a "permitted major change" because the services provided in each of the two phases are closely connected due to the economic, legal and financial dependencies of the two phases. Therefore, despite a breach in ownership continuity and the phase change, a corporate contractor or the corporate limited partner of an Limited Partnership Contractor can carry forward its tax losses if it meets the other requirements of the Business Continuity Test and the avoidance provisions in sections GB 3BA to GB 3BAC do not apply. The deadline for submissions is 19 September 2025.

Inland Revenue: Clients with invalid addresses

On 11 August 2025, Inland Revenue requested that tax agents ensure clients' addresses are up to date and are valid in its system. If a client's address is not validated, they will not receive any mail or letters in myIR.

Inland Revenue: Correspondence guidelines

On 11 August 2025, Inland Revenue provided a reminder about its correspondence guidelines (IR1025). The correspondence guidelines include the common types of requests Inland Revenue receive and outline the key information Inland Revenue need when web messages are sent.

Inland Revenue: Voluntary disclosures

On 11 August 2025, Inland Revenue advised that making a full and complete Voluntary Disclosures allows Inland Revenue to resolve matters efficiently, reducing the need for follow-up queries. Mistakes and omissions result in more correspondence and delays. Inland Revenue have asked that when making a Voluntary Disclosures, please include a full explanation of what went wrong, how and why it happened, who was responsible, and what changes have been made to prevent this issue happening again.

Inland Revenue: Expanding Inland Revenue's Decision Support Collections Tool

On 12 August 2025, Inland Revenue announced it has expanded the scope of the Decision Support Collections Tool (an analytical tool for collections activity). Inland Revenue can now offer instalment arrangements to clients of tax agents when the debt is less than 6 months old and under $10,000.

Inland Revenue: Tax agent clients with overdue debt

On 13 August, Inland Revenue announced that if tax agent's clients have been contacted through their normal billing cycle about overdue debt (particularly GST and Employment tax) and they have not responded, the client will be part of Inland Revenue's debt focus. Inland Revenue may begin further actions such as bank or wage deductions.

Inland Revenue: General Article - Tax on any fees paid to a member of a board, committee, panel, review group or task force

On 18 August 2025, Inland Revenue issued GA 25/01: Tax on any fees paid to a member of a board, committee, panel, review group or task force. This item updates GA 21/01. The purpose of this General Article is to assist board members with their withholding tax and GST obligations. How taxation applies to any fees paid to members depends on the personal circumstances of the individual member and the terms of their contract/appointment and any duties they may have to a third party (i.e. as a partner or as an employee).

Inland Revenue: Woman sentenced on tax fraud charges

On 18 August 2025, Inland Revenue published the details about an Auckland woman who was sentenced to two years imprisonment on tax fraud charges. She faced 18 charges, including filing 64 false income tax returns and manipulating bank account details for 19 taxpayers to divert refunds to accounts she controlled. She also submitted fraudulent applications to COVID-19 support schemes, successfully obtaining nearly $37,000 out of a total $222,822 she attempted to defraud from Inland Revenue.

Technical Decision Summaries

Technical Decision Summary: Company restructure for commercial and estate planning (Private Ruling)

On 4 August 2025, Inland Revenue issued TDS 25/19: Company restructure for commercial and estate planning. It concerned a family business restructure aimed at succession and estate planning. Voting shares held by a parent and two siblings are to be transferred to the siblings' family trusts, while non-voting shares are to be consolidated into newly formed companies (NewCos) owned by each trust. These NewCos will receive fully imputed dividends, which are reinvested into the company. A holding company (HoldCo), jointly owned by the siblings' trusts, will be created to govern the business with a commercial board. The restructure preserves imputation credits and ensures future control by the siblings' trusts. The Tax Counsel Office ruled that anti-avoidance provision section BG 1 does not apply, as the tax outcomes align with legislative intent.

Technical Decision Summary: Transfer of property between charitable trusts (Private Ruling)

On 7 August 2025, Inland Revenue issued TDS 25/20: Transfer of property between charitable trusts. It concerns the consolidation of charitable assets into a new entity, Charity B, to streamline administration for several large and small charities. Charity B, a registered charitable trust, will receive facilities from the Large Charities, which then become unincorporated associations (New UAs) and donate their remaining assets to these New UAs. The Tax Counsel Office confirmed that these transfers do not result in taxable income under relevant provisions, provided timing and value conditions are met. Additionally, donations received by the New UAs and Small Charities post-deregistration are not considered taxable income, and the funds transferred for charitable purposes do not trigger income tax obligations.

Technical Decision Summary: Omitted income and shortfall penalty (Adjudication)

On 19 August 2025, Inland Revenue issued TDS 25/21: Omitted income and shortfall penalty. It involved a general partnership (the Taxpayer) that claimed a GST input tax deduction on a property purchase intended for development. Later, half shares of the property were transferred to associated persons for less than market value. Inland Revenue audited the transactions and proposed GST output tax on the supplies at market value, a shortfall penalty for gross carelessness, and cancellation of the Taxpayer's GST registration. The Taxpayer disputed these adjustments. The Tax Counsel Office found that the Taxpayer was liable for GST output tax on one half of the property and for a shortfall penalty due to gross carelessness, but ruled against cancelling the GST registration.

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

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Queries or comments regarding Tax Alert including joining our mailing list, can be directed to the editor.

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