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Tax Alert

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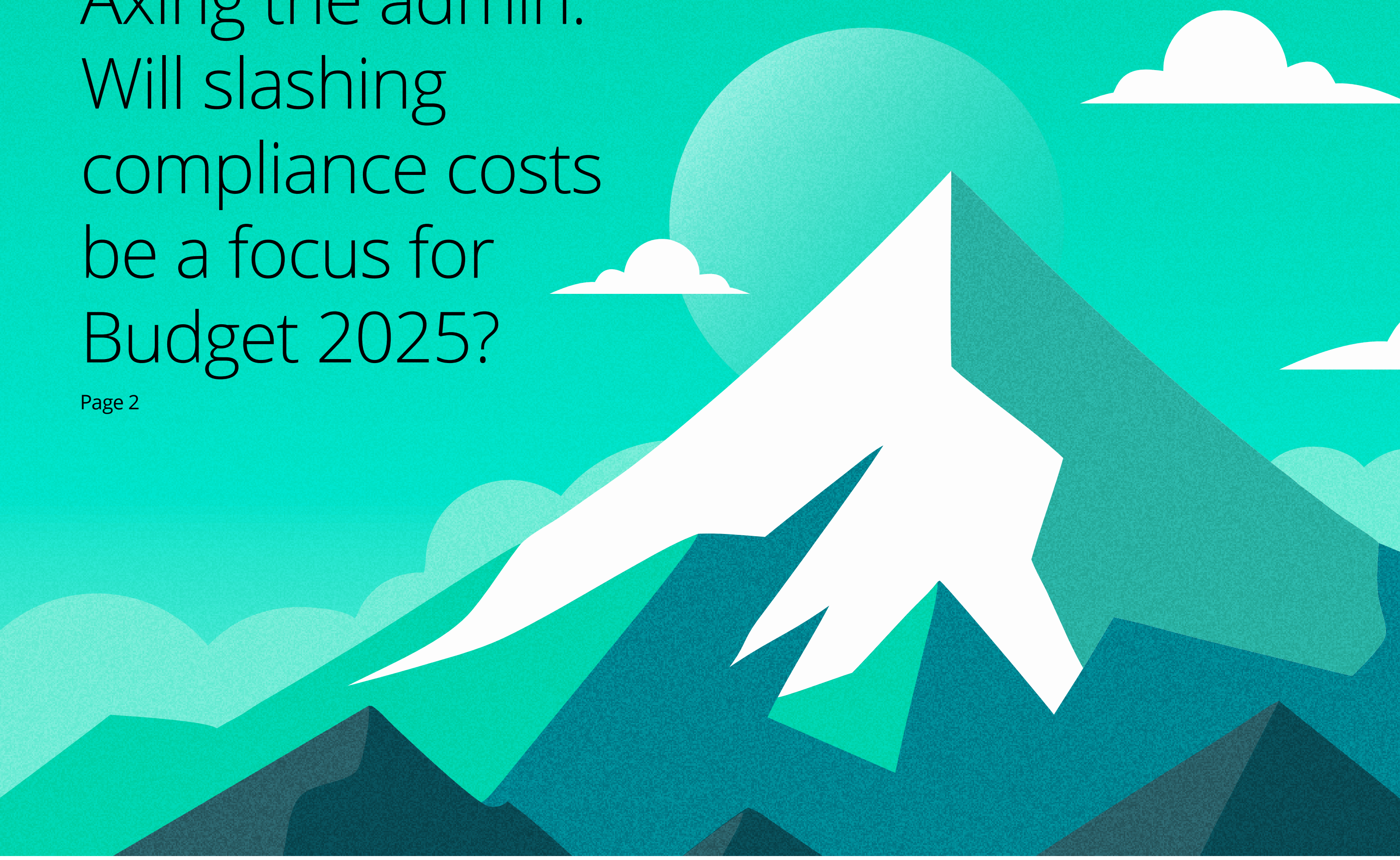
Axing the admin: Will slashing compliance costs be a focus for Budget 2025?



Axing the admin: Will slashing compliance costs be a focus for Budget 2025?

By Robyn Walker

There has been a clear signal from the Government that the cupboard is pretty bare when it comes to funding for new initiatives.

The small additional operating allowance in Budget 2025 is unlikely to be splashed in the direction of the tax system - that was the job of Budget 2024.

However, the Government's Going for Growth project launched earlier this year hinted tax complexity is on its radar:

> *"In order to enable economic growth, the administrative burden placed on those who drive growth must not be excessive. Tax is a key area where the Government has heard concerns about complexity of rules and the incentives for businesses to invest and innovate. The Government will look at how tax settings can deliver better outcomes for New Zealanders, be less complex, and support growth."*

Could Budget 2025 include announcements to make tax simpler and reduce compliance costs, without reducing overall tax collections?

With our main taxing act (the Income Tax Act 2007) just short of 4,000 pages, it's not surprising people can be left feeling the tax system is overwhelming. At the start of the century, the equivalent legislation was under 1,500 pages.

The explosion in volume and complexity of tax rules means there is plenty of room for improvement.

Even simple things like determining when employee mileage can be reimbursed tax-free can be deceptively complex.

The cost to society of complying with tax laws can be inherently hard to measure. A 2024 Inland Revenue study estimated small businesses (with turnover below $30 million) were spending 32 hours per year on tax compliance and incurring an estimated total compliance cost of $5,749 (including external advisor costs). Larger businesses will have higher absolute compliance costs.

Small changes, big savings?

Tax changes don't always have to come at a fiscal cost.

There are many simple changes which could be made with minimal or no cost, while giving back precious time to business owners to focus on growth and productivity. Some examples of potential compliance cost savings which may have no, or only a small, fiscal cost include:

- Changing tax payment dates so that tax no longer falls due on 15 January when many businesses are closed;
- Reducing the number of depreciation rates businesses must choose from to make it easier to select the right rate. The current list of rates runs to 62 pages;
- Expanding the types of expenditure where taxpayers can take deductions without detailed tax analysis. For example, legal fees below $10,000 are automatically deductible. This threshold has not changed since it was introduced in 2009;
- Having greater alignment between tax and accounting treatments, removing the need to make tax return adjustments for things like accrued expenditure and prepayments. The existing prepayment thresholds have not been updated since 2009;
- Simplifying non-resident contractor tax rules, placing more obligations on the supplier rather than the payer;
- Reviewing and simplifying the withholding tax rules for contractors;
- Increasing thresholds allowing more taxpayers to use simplified rules. For example, the threshold to be a 'cash basis person' under the financial arrangement rules has not moved since 1999.

Fringe benefit tax (FBT) and entertainment rules are also frequently cited as a cause of excess compliance costs. Inland Revenue has recently undertaken consultation on much needed improvements to these rules. These proposals are designed to recalibrate the rules without changing the total tax collected.

While we don't know whether compliance cost reduction will make it into Budget 2025, we do know tax changes for charities are off the table for now, with the Minister of Finance citing too many complexities for relatively small gains.

But the expectation is that there will still be some form of tax announcement come May 22 - it's a rare year when there is nothing.

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Inland Revenue's compliance activity momentum keeps building

By Amy Sexton and Campbell Rose

Last year we signalled the Inland Revenue's increasing compliance activity after their Budget 2024 funding boost, cautioning that it was timely for taxpayers to deal with any skeletons in their tax closet, and get their tax affairs tidied up. Inland Revenue have certainly put their funding to swift and effective use, with a noticeable ramp up in risk review and audit activity.

A media release from Tony Morris, Inland Revenue's Segment Lead for Significant Enterprises (businesses with turnover of more than $30 million, or with 50 or more employees) in April 2025 put some actual figures against the anecdotal evidence of increased investigation activity we have been seeing. For the July – December 2024 period Inland Revenue has:

- Opened 3,600 audits – 50% more than in the same time the year prior
- Found $600m of additional tax through audits (half of which came from less than 10 audits)
- Reviewed 30,000 filed returns (from the more than 3 million filed) that resulted in audits or voluntary disclosures that added $859m in tax revenue
- Contacted over 200 business owners who own multiple properties and have tax debts of $14m
- Between September – December 2024, liquidated 164 companies (84% more than the same 2023 period) and declared 26 people bankrupt
- Completed seven prosecutions for tax evasion
- Identified 800 people who may be trying to avoid the 39% tax rate by keeping income in companies or trusts
- Began using payment service providers' data to investigate businesses, including to monitor GST compliance issues
- Issued 160 reminder letters to crypto currency owners to declare estimated income of $2.7m from crypto transactions
- Opened hidden economy audits in the construction sector for $2.3m of identified tax discrepancies and made unannounced visits to 320 independent liquor stores and 450 vape stores
- 50 ongoing investigations into the use of electronic sales suppression tools

This looks to be just the beginning of Inland Revenue's increased compliance activity. We have seen its Customer Compliance Specialists (CCS) - previously known as investigators or auditors – using what appear to be increased first-instance decision-making protocols to move businesses into audit quickly. Their current focus seems to include FBT, GST, payroll taxes and general accounting system processes. CCS's have also been very active with onsite visits to gain a deeper understanding of taxpayers' businesses, as well as reviewing accounting systems and processes with finance staff, in person and virtually.

As we discussed in our earlier article, it is a better outcome for everyone when taxpayers voluntarily comply with tax laws, but errors and disputes will always arise. So, as a reminder, here are a few essential steps to help get your house in order before Inland Revenue knocks at your door.

Make sure your business records are up to date.

Filing and administration can be a drag, but it is essential to have well maintained tax records, including Inland Revenue minimum standard financial statements where you do not already prepare audited financial statements.

Check your facts.

If you've been relying on historical tax advice or rulings, it's important to dust these off periodically and confirm your facts (or the law) and assumptions/conditions have not changed, and that you are still complying with the rules. Frequent law changes mean you can't assume a position taken years ago is still applicable today.

Review any contentious positions.

How comfortable are you that your position is reasonable and fully documented? Would obtaining more certainty via a binding ruling be a valuable and worthwhile investment?

Have an independent review/tax health check undertaken.

Engaging external tax experts to do this is a good way to get comfort that you're doing the right thing (FBT, GST, payroll, and tax governance reviews are popular choices), or identify issues (and potential opportunities if you've been overpaying tax) that can be voluntarily disclosed to Inland Revenue before you're faced with an audit or other compliance activity. Inland Revenue has launched a Participating Advisor Programme initiative which will increase the levels of assurance that can be received from qualifying independent reviews of tax systems and processes. Deloitte will be participating in the programme.

Tax governance is a focus for Inland Revenue, and although there are no penalties imposed for poor tax governance itself, it is a factor that is taken into consideration by Inland Revenue when determining the frequency and/or nature of audits and other interventions the level of shortfall penalties on any tax reassessments.

For more advice on any of these topics, or guidance on what to do if you've received an audit notification letter, please get in touch with your usual Deloitte tax advisor.

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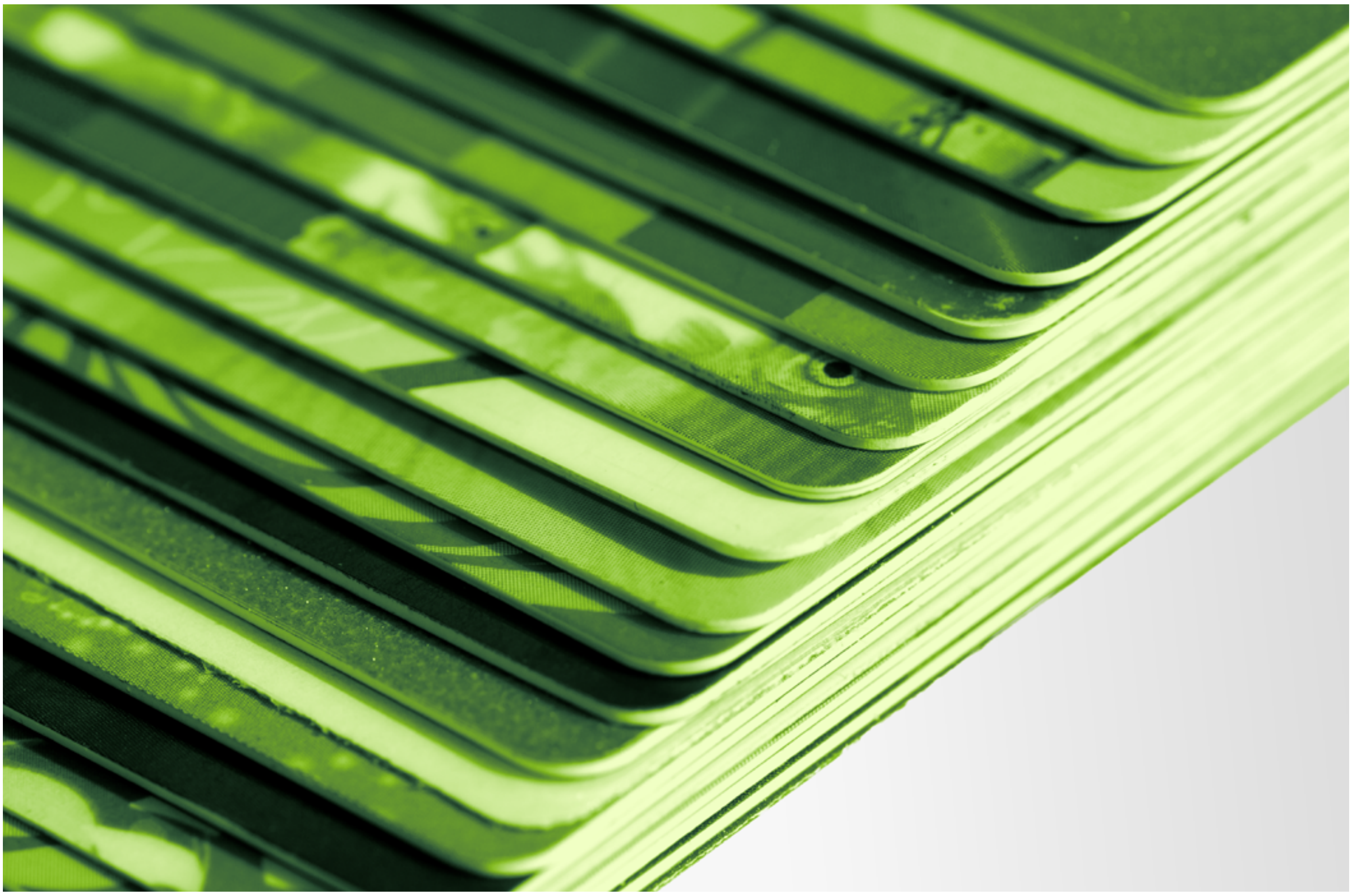
Inland Revenue position on rebates and gift cards finalised

By Robyn Walker



Kickbacks and other incentive schemes are in Inland Revenue's sights with the finalisation of its draft guidance "What is the income tax treatment of gift cards and products provided as trade rebates or promotions?". This guidance was issued following concern that practices in certain industries had moved away from cash rebates (i.e. discounts on product once certain targets were purchased) to the provision of gifts, free products, vouchers and other gift cards, for which the tax outcomes were misunderstood. Examples came out of the woodwork of trade customers being given gifts as significant as cars and jet skis as rewards for repeat business.

While cars and jet skis may be the exception rather than the norm, it was clear there was a need for clarification that non-cash rebates were not a way to reward customers without any tax consequences.

The finalised guidance also provides important information for all employers on whether Inland Revenue thinks fringe benefit tax (FBT) or PAYE applies to gift cards and vouchers (see below).

What arrangements does the guidance apply to?

There are a wide range of ways in which businesses try to inspire loyalty in customers, and this guidance focuses on business-to-business trade rebate arrangements, including where employees and shareholders may be the benefactors of the schemes. The statement does not apply to consumer loyalty schemes (so you don't need to consider the consequences of your buy nine get one free coffee loyalty card).

How are trade rebates treated?

The receipt of a trade rebate, in any form, should be treated as an amount of income by the recipient. The exact treatment may vary depending on the form of the rebate and who the recipient is.

The conclusions in the statement can be summarised by the following table:

REBATE TYPE	INCOME TAX TREATMENT FOR BUSINESS	ADDITIONAL TREATMENT IF PROVIDED TO EMPLOYEE	ADDITIONAL TREATMENT IF PROVIDED TO SHAREHOLDER OR ASSOCIATES
Gift card – "open loop"	Face value of the gift card is income of the business. Deductions available if the gift card is supplied to an employee and subject to FBT. If the gift card is used to purchase something for use in the business, deductions are available for the expenditure.	Subject to PAYE based on face value of card.	Amounts provided to shareholders (or associates) are taxable as a dividend. Taxable as income (generally as a PAYE income payment for shareholder-employees).
Gift card – "closed loop"	Face value of the gift card is income of the business. Deductions available if the gift card is supplied to an employee (including a shareholder-employee) and subject to FBT. No deductions for gift cards provided to shareholders that are treated as dividends. If the gift card is used to purchase something for use in the business, deductions are available for the expenditure.	Subject to FBT based on face value of card (subject to application of the de minimis rule for unclassified benefits).	Amounts provided to shareholders (or associates) are taxable as a dividend. Subject to FBT if provided to shareholder-employees (in their capacity as an employee).
Products/ other goods and services	Income of the business based on the realisable value of the product (i.e. secondhand value). Deductions available if the products are supplied to an employee (including a shareholder-employee) and subject to FBT. No deductions for products provided to shareholders as these should be treated as dividends. If the business sells the product, the amount received will be income and a deduction available for the realisable value of the products treated as income (i.e. income and deduction based on the realisable value of the product (which nets to $0), additional income amount of the amount actually received).	Subject to FBT based on the market value of the product (subject to application of the de minimis rule for unclassified benefits).	Subject to FBT based on the market value of the product if provided to shareholder-employees (in their capacity as an employee), otherwise taxable as a dividend.

What's the difference between open loop and closed loop cards?

In its interpretation Inland Revenue have revealed that gifts cards come in different forms and the tax treatments differ depending on whether the card is "open loop" or "closed loop" (which includes network and semi-open/closed cards). This treatment applies for all purposes, not just scenarios where there has been a trade rebate. Inland Revenue's definitions are:

Open loop card means a prepaid card co-branded with a credit card (or other payment network) processor that is accepted for payment by merchants anywhere the network processor's brand is accepted (that is, in the world, in-store or online) and can be used until the pre-loaded monetary value is depleted or the card expires.

Closed loop card means a prepaid card that is accepted for payment by only a specific merchant or multiple merchants at the same location (such as a shopping mall) and can be used until the preloaded monetary value is depleted or the card expires.

The distinction between the cards is something that many taxpayers would have never given a thought to before, with all gift cards generally being viewed as fringe benefits and tax through FBT returns.

However Inland Revenue conclude that open loop cards are sufficiently widely accepted that they are essentially money and should be taxed through the PAYE regime. Other forms of gift cards are still considered to be vouchers and are taxed through the FBT regime. A common example of an open loop card cited in the statement are Prezzy Cards.

In an acknowledgment that employers have previously taken the view that open loop cards are fringe benefits, Inland Revenue propose that this treatment is corrected on a go-forward basis and won't be looking to review the past if the FBT rules have been applied:

> *"The Commissioner acknowledges that some employers have been incorrectly treating open loop cards provided to employees as fringe benefits (and subject to the FBT rules) and not the payment of money (and PAYE income payments). The Commissioner will not apply resources to correct previous tax positions taken in return periods ending on or before the date of this statement where an employer has incorrectly treated the provision of an open loop card to an employee as a fringe benefit and returned FBT on that basis."*

The requirement to tax open loop cards through the PAYE regime will be an unwelcome conclusion for many employers as there can be practical difficulties and additional compliance and tax costs associated with making payroll adjustments. The FBT return is viewed by many employers as logistically simpler. Potential relief is on the horizon, with Inland Revenue's FBT policy review proposing a law change to allow the cards to once again be included in the FBT return. However, any such change is still subject to Government approval and legislative processes, so may still be some time away.

For more information, please contact your usual Deloitte advisor.

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Popular employment tax questions

By Robyn Walker, Andrea Scatchard, Sam Hornbrook and Nicole Nathan

Each year Deloitte hosts an employment tax refresher and its always one of our most popular events, presumably because employment tax impacts people and if you get something wrong, they might notice and complain… and no one wants that!

The larger an employer gets, the quicker a small error can snowball into a much bigger problem. In this article we summarise some of the frequently asked questions at our most recent webinar.

Which regime

How do I know if something is subject to FBT rather than PAYE?

The general rule when determining what tax is payable is to look at the legal liability and who's cost it is. If the employer is paying a cost that has been incurred by the employee, then PAYE should apply; if the employer has incurred a liability, then FBT will apply. For example, if an employer offers to pay an employee's gym membership this will be subject to PAYE; if an employer goes and organises access to a gym for employees this will be subject to FBT.

Motor vehicles

Are fuel cards subject to FBT?

Fuel cards associated with employer provided vehicles are not separately subject to FBT – the taxable value calculation includes all costs of running the vehicle, including fuel.

However where fuel cards are provided to employees who use their own vehicles, the situation is a bit more complicated. To the extent that the value of the fuel card covers work related travel in the employee's vehicle, no FBT should arise. If a mileage reimbursement was provided instead, this would be exempt from PAYE in accordance with the mileage reimbursement rules. If the equivalent benefit is provided via the employer providing a fuel card this will be exempt from FBT. The FBT rules include an exemption for any benefits which would be exempt if they were provided as a reimbursement or allowance. Any excess over the amount of an exempt mileage reimbursement will be subject to FBT – this ensure that to the extent the fuel card is funding private travel, this is taxed.

What happens if an employee is allocated two motor vehicles?

The mere availability of a vehicle for private use creates a FBT liability. If an employee has two vehicles available to them on any given day FBT will apply to both vehicles.

Our business allows employees to charge their own EVs onsite. Does FBT apply?

Technically the on-premises exemption would not apply to exempt this benefit from FBT because the use of the benefit occurs when the vehicle leaves the employers premises. This is a difficult benefit to measure and is likely to be a low value. Some employers will be able to exempt this using the de minimis rule.

Are pooled vehicles FBT exempt if only used for work purposes?

If a vehicle is not available for private use no FBT will apply. However, home to work travel is considered private travel unless the vehicle is a "work-related vehicle". As such, if a pool vehicle is taken home by an employee because they have a late/early meeting that they need the vehicle for, FBT will apply to that travel.

Motor vehicles (cont.)

What is the tax book value option for motor vehicles?

The taxable value of a vehicle can be calculated based on 5% of the GST inclusive cost of the vehicle per quarter (20% per annum) or 9% of the GST inclusive tax book value (36% per annum). When using the tax book value option, the tax book value can't fall below $8,333 (including GST). The tax book value option will result in lower FBT costs for employers with older vehicles. Once a method is selected for a vehicle, it must be used for at least 5 years.

If a work-related vehicle is taken home can the employee stop at the supermarket on the way?

Incidental private use of a work-related vehicle is permitted. This is generally viewed as being able to "stop along the way" to do a private errand such as stopping at the supermarket. Inland Revenue accept that a deviation of up to both 2km or 5% of the journey is "incidental".

Can employers make employees pay the FBT for personal use at the weekend?

An employer can consider how the value of providing a vehicle to an employee is factored into an employee's salary package. Many employers will factor this, and the associated FBT cost, in when negotiating salaries. However, outside of this approach, it's conceivable that an employer could ask an employee to make a contribution to the running cost of a vehicle if an employer is allowing the employee to use it for private use. Any contribution that an employee pays for use of the vehicle is subtracted from the taxable value of a motor vehicle. For example, a vehicle costing $30,000 (incl. GST) creates a taxable value of approximately $16.67 per day (calculated as $30,000 x 5% / 90); if an employee makes an equivalent contribution to the employer this will remove the FBT liability as the taxable value will be reduced to nil.

Car parks

Do car parks attract FBT?

Many car parks fall within the "on-premises" exemption from FBT. Inland Revenue have detailed guidance on how this exemption applies to car parks here.

Bikes

If an e-bike is made available to employees to support health and fitness is this exempt from FBT?

If an employer provides a bike to employees for the main purpose of commuting between home and work this will be exempt from FBT. If an e-bike is provided predominantly to facilitate an employee exercising then FBT will apply to the use of the bike. More information about the FBT exemption for bikes, scooters and public transport is available here.

Insurance

When is health or life insurance subject to FBT rather than PAYE?

The answer to this question is the same as the answer above about the general rule. If an employer is the owner of a group health policy this will be subject to FBT, if the employer is contributing toward the cost of the employee's own health insurance policy this will be subject to PAYE. In order for FBT to apply, the insurance needs to be a policy provided for the benefit of the employee. For example, FBT will not apply to insurance policies where the beneficiary of the policy is the employer, and the employee is not entitled to receive any benefit under the policy.

Is income protection insurance subject to FBT?

Income protection insurance is typically exempt from FBT if it is a policy taken out by the employer. This is on the basis that insurance pay-outs made following an insured event occurring are generally considered employment income of the recipient.

Health & safety exemption

Is a contribution toward prescription safety glasses exempt from FBT?

Providing a benefit like prescription safety glasses should be exempt from FBT under the health and safety exemption. However, if an employer is technically providing a cash contribution toward glasses that an employee is purchasing this would fall under the PAYE regime. From 1 April 2025 a PAYE exemption now applies to payments to employees that are related to health and safety benefits.

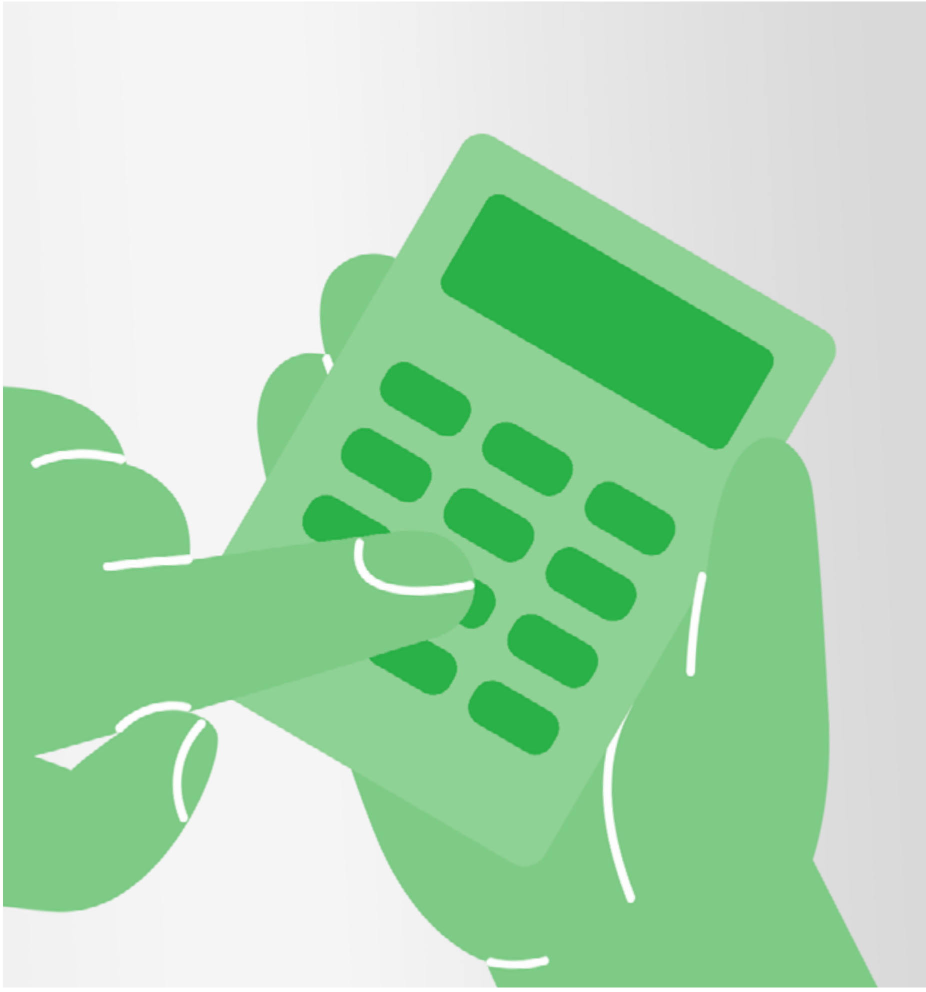
Other benefits

If an employer provides products to employees that can't be sold to customers (e.g. wrong labels, close to expiry), would FBT apply?

When an employer provides goods to an employee the value for FBT purposes will depend on whether the employer manufactured, produced or processed the goods (use the market value) or if they are purchased from a third party (use the GST inclusive cost price). The question seems likely related to someone who is producing products and therefore the relevant value is the market value. If items can't be sold or can only be sold at a very heavy discount, it is this lower value that should apply not the ordinary retail price of an undamaged item.

Is the open v closed loop card treatment a change or has that always been the interpretation?

Refer to our separate article about open loop cards, here. Previously there has not been any Inland Revenue guidance on open loop cards and most taxpayers therefore assumed they were treated in the same manner as other gift cards and vouchers and subject to FBT.



Other benefits (cont.)

How would you treat an open loop card provided to a contractor?

On the basis that open loop cards are to be treated as a cash equivalent, the provision of an open loop card to a contractor would have the same treatment as any other payment. That is, if the contractor is of a type listed in the IR330C form, then an additional withhold should be made from a cash payment to cover the tax on the open loop card. If instead a normal store gift voucher was provided, this would be subject to FBT if the contractor is subject to withholding tax.

FBT calculations

When doing an FBT attribution, what salary data do you use, the total annual salary or the amount actually paid?

FBT attribution calculations are performed using formulas which look at the actual cash paid to an employee and the value of benefits received. This means that if an employee only worked for part of the year, the FBT rate that applies may be lower than what would apply if the employee had worked the full year and received their full salary.

The questions and answers in this article are necessarily brief and should be treated as indicative only as tax answers can vary based on facts. If you've got more questions about how benefits should be taxed please get in contact with your usual Deloitte advisor.

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Tax governance – new Inland Revenue guidance

By Annamaria Maclean, Kirstie Anderson and Hamish Butterworth-Snell

Most corporate taxpayers in New Zealand are no longer strangers to Inland Revenue's increased focus on tax governance, which has continued to grow in recent years. With significant enterprises and companies/groups owned by high net wealth individuals (HNWI) now expected to have a robust tax control framework in place, a key question for many businesses has been: What exactly is a robust tax control framework, and what does that look like in practice?

In April 2025, Inland Revenue released additional guidance for taxpayers, taking a "principal based approach" to help taxpayers understand what it is looking for when considering whether tax governance is up to scratch.

This latest guidance is a timely reminder to "get your tax governance house in order", especially given the significant increase in Inland Revenue review and audit activity that we have seen in recent months – with most of this having a focus on tax governance in one way or another. In addition, the guidance is clear on Inland Revenue's view on tax governance and how this relates to the application of shortfall penalties, with Inland Revenue stating:

> *"It is in an enterprise's best interests to have a tax governance framework. If we investigate an enterprise's compliance with tax legislation, find an error and need to consider imposing a penalty, we can take into account the enterprise's tax governance practices when considering which penalty to apply."*

All enterprises are expected to review their tax governance framework, making sure they have good policies, procedures and controls in place, with all documents up to date. Inland Revenue expects enterprises to undertake an initial gap analysis assessment on their tax control framework, and then act on the identified gaps, acknowledging that there is no "one size fits all" framework and it should reflect the enterprise's size and complexity.

What does Inland Revenue look for in a tax control framework?

Although the guidance doesn't introduce any materially new concepts, it builds on Inland Revenue's existing guidance and maturity model, helpfully setting out additional guidance on what is looked for in a tax control framework, and how to assess your current tax governance practices.

Again, recognising that there is no one size fits all approach for tax control frameworks, Inland Revenue has set out some key components under each of the building blocks of a tax control framework that it wants to see when reviewing an enterprise's tax compliance.

The key components have a focus on:

Documented tax strategy, roles/responsibilities, processes, policies and procedures for each tax type – notably including a specific call for checklists showing the steps, required reviews and sign-offs obtained for each tax process;

Testing of tax processes and controls, requiring a testing plan to test the effectiveness of the control framework and evidence of independent testing/findings – noting that this should be tested regularly to ensure it remains fit for purposes and retested following a major change in business activity or systems;

Reporting to the Board on tax on a regular basis, not just when issues arise.

While not a prescriptive list of requirements, the guidance gives taxpayers the ability to determine what makes sense for their business.

Checklist and tax process documents

One area that had not been clear in the past was Inland Revenue's expectations around tax process documentation. There is now additional clarification in the guidance that the processes should include the steps from key tax data, calculations and procedures through to filing of the tax return. The processes should be included in process maps, flowcharts and written manuals. Inland Revenue also outline what they expect for in house and tax agent prepared returns:

In house returns

If your enterprise's returns are prepared in-house, procedures should be set out to show:

- how data is extracted and who is responsible to ensure the correct data sets are used
- how to ensure that the correct tax treatments are applied to material ongoing and atypical transactions
- consideration of Inland Revenue's view, including in treating material ongoing transactions
- references and reconciliations to accounting reports, workpapers or source documents
- separation of duties in the preparation and review processes
- compliance with the relevant tax legislation.

Returns prepared by a tax agent

If your enterprise engages a tax agent for tax compliance obligations, procedures should be set out to show:

- effective controls to ensure accurate data and information is provided to the tax agent
- the agent's work is consistent with the agreed scope and tax obligations are met
- oversight of the tax agent's work and output, including review and approval.

Source: Inland Revenue
[What we look for in a tax control framework]

Assessing your tax governance practice

Good tax governance is not just about having a framework in place, but having a framework that is both designed effectively and operating effectively to manage tax risk.

Inland Revenue recognises this is a journey to having a fully effective framework, and that an important step in this journey is assessing how your framework stacks up, to then identify where further components need to be established or enhanced.

Using the guidance, taxpayers can understand where they are currently at and whether their tax risk management and control framework are meeting Inland Revenue expectations. In particular, a two step starting point in the journey is suggested:

1. A gap analysis assessment to assess the existence of the key components of a tax control framework;
2. Active progression through the Inland Revenue maturity model and process journey.

INLAND REVENUE
Process journey

Evaluate

- Understand your current state
- Set your tax strategy
- Update your policies and procedures

Establish

- A tax strategy is in place
- Tax risks are being managed
- The tax function is fit for the enterprise

Enhance

- The tax control framework is being tested and updated
- There are regular tax health checks and rolling testing of processes and procedures

Where to from here?

Regardless of where you are in your tax governance journey, the new guidance from Inland Revenue provides a clear call to action for all corporates and HNWI groups and a heads up on what they expect to see if you are selected for review/audit.

While developing a tax control framework can seem like a big job, we can assist with undertaking a gap analysis review of your current framework to see where you currently sit against Inland Revenue's expectations. This allows you to focus your time and efforts on the key risk areas which will be of most value when it comes to managing tax risk and paying the right amount of tax. We can also assist you with progressing through the maturity model with development and testing of your tax process documentation.

Contact your Deloitte advisor to discuss this and other tools we have available for enhancing your tax control framework.

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Off-market share cancellation and dividends in lieu, could you be caught?

By Campbell Rose, Alex Mitchell, Greg Mitchell and Anna Roche

In April Inland Revenue issued the draft interpretation statement PUB00469: Income Tax – Whether an off-market share cancellation is made in lieu of the payment of a dividend (the IS). The IS considers the anti-avoidance rule in s CD 22(6) and (7) of the Income Tax Act 2007 (the Act) (called the "in lieu of dividend test") and how it applies to an amount a company pays to a shareholder in an off-market cancellation of shares. It replaces IS 2966: Exclusion from the term "Dividends" – whether distribution made in lieu of dividends' payment, which was published back in 1999.

How do these rules currently apply?

On the face of it, all distributions from a company to its shareholders in their capacity as shareholder are dividends, unless a dividend exclusion provision applies. This includes any amount distributed on the cancellation of shares in a company. However, an amount distributed on an off-market cancellation of shares may be excluded from the dividend definition where the relevant requirements in s CD 22 are satisfied. Broadly, the dividend exclusion applies objective "bright line tests" to determine when a company is undertaking a genuine capital reduction through a share cancellation, and these tests are buttressed by an anti-avoidance rule. The anti-avoidance in-lieu of dividend test applies in circumstances where the purpose of a share cancellation is to avoid paying a (taxable) dividend (i.e., a dividend substitute).

In applying the anti-avoidance rule, the Commissioner is required to consider a number of factors, which are set out in s CD 22(7). The factors are:

- **The nature and amount of dividends the company pays before or after the cancellation**
  A change in the size and frequency of dividend payments before and/or after the cancellation can indicate that the share cancellation was in lieu of a dividend.
- **The issue of shares in the company after the cancellation**
  Shares issued after a share cancellation can indicate that a company has taken artificial steps to meet one of the bright line tests and suggests that the share cancellation was in lieu of a dividend.
- **The expressed purpose or purposes of the cancellation**
  Objective evidence showing the share cancellation is undertaken to achieve a commercial outcome is less likely to be treated as a dividend substitute.
- **Any other relevant factor**
  The Commissioner must also consider "any other relevant factor". While the Act does not specify what factors might be relevant, the Inland Revenue view is that the Commissioner should consider, for example, whether the cancellation is part of down-sizing of the company, whether the cancellation is an unusual/one-off event and whether the makeup of the shareholders' interests will be materially changed.

What's new?

Off market share cancellations and in what circumstances the anti-avoidance provision applies has been a hot topic for Inland Revenue in recent years, with the boundary being closely scrutinised. Despite this, the draft IS does not propose wholesale changes to Inland Revenue's views. Instead, the draft IS expands and clarifies the commentary in the original IS (more than doubling the length of the guidance). The notable updates include:

- Additional commentary on group restructures/re-organisations, returns of surplus capital, and balance sheet restructures as all being legitimate purposes for the share cancellations (and therefore potentially not in lieu of a dividend). This is very positive. Although the additional commentary is broadly consistent with the current approach, it provides useful additional guidance on where the Commissioner will draw the line on the anti-avoidance rule when considering the commercial rationale for a share cancellation.
- Five additional examples. Unfortunately, while examples are welcome additions, as is often the case with Inland Revenue guidance they are based on relatively simplistic and clearcut facts which are not necessarily going to be analogous to real world situations.

- An explicit statement that a redemption of non-participating redeemable shares should generally require a higher threshold to be caught by the anti-avoidance rule (which is consistent with how these are generally viewed in practice). Again, this is a positive addition to the commentary. There is however a caveat that the Commissioner considers that multiple small redemptions may suggest that these represent dividend substitutions; Deloitte will be making a submission on this point as it appears at odds with the nature of such shares (essentially funding instruments).
- Clarification that shares issued under an employee share scheme, with close proximity to a share cancellation, should not be detrimental to the application of the in lieu of dividend test.
- The majority of the additional commentary appears to be relatively taxpayer friendly (at least insofar as providing additional guidance on the boundaries of the anti-avoidance rule), However one issue that Inland Revenue draws attention to, that is quite problematic, is the view that if any part of a share cancellation payment is considered to be in substitution for a dividend, then the entire payment will be considered a dividend. Under this analysis, the dividend portion will effectively 'taint' the entire amount of the payment, which could potentially have material adverse consequences. We will also be raising this in submissions including from a policy perspective (as it is quite clear that the law states this).

What does this mean?

The draft IS provides some welcome additional guidance on when a share cancellation may or may not be in lieu of a dividend. Although it is encouraging that the draft IS does not move the goal posts on the application of the anti-avoidance rule, it does highlight Inland Revenue's view on the consequences for getting it wrong (by 'tainting' the entire share cancellation payment). What continues to be evident is that Inland Revenue expects that a share cancellation will be "supported by an objective and verifiable commercial purpose", which is evident in the facts, both before and after the cancellation (e.g., dividend payment profile, changes to the business operations/ownership structure). Even with the commentary, this remains an area where the outcome can be 'grey' if the facts are not clear cut, and it is important to seek advice. In some situations, a binding ruling may be appropriate. This is an area that Inland Revenue is frequently asked to rule on, so this guidance reflects how the rules have been applied against binding ruling applications.

Inland Revenue has been increasingly focussed on disguised/substituted dividends (referred to as 'dividend avoidance'), and this updated guidance is further evidence that it is as important as ever to have your ducks in a row (and sufficiently documented), and potentially seeking certainty through a ruling, before undertaking a share cancellation.

The deadline for submissions on the draft guidance is 3 June 2025 and if you have any questions on the document or shares and dividends generally, please contact your usual Deloitte advisor.

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PPPs are back, but should they still be structured the same?

By Emma Marr and Hamish Tait

Public private partnerships (PPPs) – not seen in NZ government infrastructure procurement since 2018 – are back on the menu. That was the signal to the market from the National-led Government's 'refreshed' PPP framework document released to the public late last year.

The basic principle underlying a PPP is that it is a collaboration between the Government and private investors, to finance, build and operate/maintain an infrastructure asset. In a New Zealand context, the Government has been clear that PPPs should not be used for all infrastructure delivery. Rather, the intention is they will only be used where having private investment is considered to improve delivery performance by creating stronger commercial incentives.

Publicly available information shows that projects currently being looked at for procurement during 2025 and 2026 include:

- Northern Corridor – Waka Kotahi NZ Transport Agency
- Christchurch Men's Prison; Waikeria Prison PPP Expansion – Department of Corrections
- Waitakere and Rotorua Courts – Ministry of Justice
- Linton Camp Barracks, Messing and Dining facilities – NZ Defence Force

With these projects in the pipeline, investors will soon need to make decisions about how best to structure their investments.

In that regard, the limited partnership (LP) has been the commonly used structure for nearly all PPPs and similar projects in New Zealand over the last 10 to 15 years. This structure helped to mitigate against adverse impacts of a company structure, including from tax loss forfeiture and (for New Zealand investors) exposure to thin capitalisation rules. However, a number of tax changes in these areas, and some new Inland Revenue views in respect of LPs, may mean that this assumption is worth revisiting – particularly depending on the tax profiles of the consortium members, and their relative priorities/exit horizons. It is also critical for the tax consequences of these long-term projects to be understood and planned for over the project life.

This article steps through some of the key points commonly considered as part of PPP structuring, such as:

- Thin capitalisation;
- Tax losses and loss carry forward;
- Distribution/repatriation of funds;
- Inland Revenue binding rulings/sign offs; and
- Other considerations such as investor mix.

Thin capitalisation

The thin capitalisation rules generally limit interest deductions for non-resident owned entities where debt exceeds 60% of net assets plus non-debt liabilities (unless the worldwide group is more highly geared). At one level, unless otherwise able to be managed, this rule tended to push some PPP structures towards LPs, given that thin capitalisation applies at the limited partner level (and therefore overall project economics were not impacted by the makeup of the consortium – e.g. non-resident investors 'pulling' the special purpose vehicle into the thin capitalisation rules). Instead, each investor was responsible for managing their own compliance with the rules.

However, since 2018, a specific concession for infrastructure project finance has existed to reflect that PPPs are often highly geared, supported by the project economics without recourse to investors. This concession generally allows full interest deductibility for third-party project debt for PPPs structured within certain parameters (including a project length of at least 10 years after which the assets are required to be owned by the Crown). These criteria are intended to be met by projects carried out under the NZ standard PPP contract.

The introduction of the concession has meant that in most scenarios the same thin capitalisation outcome should apply irrespective of the project vehicle (company vs LP). That is, provided the contractor has only third-party project debt, full interest deductibility should apply.

The Government's upcoming projects will be the first PPPs procured since the new rules came in. Thin capitalisation will still need to be considered, noting that there are nuances around the slightly different rules can still apply for LPs versus companies. However, in principle, the new rules may mean that factors other than thin capitalisation will be more relevant to selecting the PPP project vehicle.

Tax loss continuity

Positive changes to the loss carry forward rules have been made since the last round of PPPs. In the past, company tax losses couldn't be carried forward following a change in shareholding greater than 51%. As PPPs involve significant upfront costs, preserving the value of tax losses accrued in the early phase of a project can be of great benefit, particularly if an investor exits before the project generates taxable profit.

A business continuity test, introduced from the 2021 income year, allows companies to carry forward losses following a breach of shareholder continuity if there are no major changes in the company's business activities. The rules are relatively untested, including in infrastructure projects which inherently have some major changes to the activities carried on by the project vehicle through the project life cycle (albeit these are all known at the outset of the project).

Utilising an LP allows losses to flow through to limited partners as soon as they are generated, however an LP may not be the preferred vehicle for all investors in a PPP. The new loss carry-forward rules mean that a company may be a viable option to preserve losses even where a change of ownership may arise.

Repatriation of funds

A PPP vehicle may be cash-flow positive before it is taxpaying. This means it has cash to distribute to investors, without imputation credits being available to offset tax payable on those dividends, or reduce withholding tax on dividends paid to non-resident shareholders. In that circumstance, the withholding tax payable on dividends is dependent on double tax agreements (DTAs), which can vary greatly in the rates applied (0%-15%, or up to 30% without a DTA).

As with losses, the use of an LP, depending on the specific structure of the PPP, can enable funds to flow back to limited partners without corporate tax being applied within the project vehicle, or withholding tax applying. Whether this is beneficial to the investors will depend on a number of factors, including each investor's tax profile.

Inland Revenue sign off

To date, the government/procuring agencies have generally required that successful bidders for PPP projects obtain binding rulings covering the key tax consequences of the project. It is expected that this will continue to be the case. Rulings have also generally been seen as positive by equity and debt sponsors, who value tax certainty over the life of the project.

Given some of the tax points outlined above, it can be expected that Inland Revenue will need to consider some tax issues that it has not previously considered as part of ruling applications on upcoming projects.

Inland Revenue also issued public rulings (back in 2013) regarding some of the key tax treatments for PPP projects, but these generally did not cover points regarding the financing of the project (including the financial arrangements rules), or avoidance – which investors typically will want comfort on.

Other considerations

Consortia borrowing from non-resident third party lenders, who are able to pay the approved issuer levy (AIL, a deductible 2% on interest payments) instead of withholding tax on interest payments, will be subject to new, more forgiving rules, that allow retrospective registration of borrowers and securities, at the Commissioner's discretion. Previously, very strict rules did not allow late registrations, meaning that any delay in registration resulted in non-resident withholding tax at up to 15% being payable, significantly increasing the tax cost of borrowing. The new rules apply from 1 April 2025.

New Zealand has formally implemented the OECD GloBE/Pillar Two rules. The rules apply to multinational enterprise groups (MNEs) with global turnover above EUR 750M, and ensure that MNEs pay at least 15% tax on their income in each country where that income is reported for financial reporting purposes. The rules also apply to inbound groups operating in New Zealand. The impact of the rules for any investor in a PPP should be considered at the initial structuring stage, to ensure any requirements are understood.

Finally, an increased focus by the Inland Revenue on the tax treatment of realised investments means that all PPP participants should carefully consider whether investments are held on capital or revenue account. The analysis focuses on a number of factors, including the purpose or intention of the investor at the time of acquisition, with different tests depending on what is acquired. As the intention of the investor needs to be considered, the analysis may be different if a limited partner rather than a company structure is adopted.

If you would like to discuss these in more detail, please contact your usual Deloitte advisor.

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FATCA and CRS update – are you prepared for Inland Revenue activity?

By Vinay Mahant, Vicky Yen and Troy Andrews

Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) reporting season is under way and New Zealand Financial Institutions (NZFIs) have until 30 June 2025 to submit their annual FATCA and CRS reporting information (for the year ended 31 March 2025) to Inland Revenue.

These regimes have been in effect for some time now and this year marks the 11th and 8th annual reporting cycles for NZFIs (for FATCA and CRS, respectively). Broadly, these regimes aim to improve cross-border tax compliance through a global automatic exchange of information. This is achieved by requiring "Financial Institutions" to conduct due diligence on their account holder base and report certain information about their US/non-resident accounts to relevant tax authorities (through Inland Revenue).

The success of FATCA and CRS in terms of meeting their goals of achieving better tax compliance is largely driven by how effectively and consistently they are implemented across the world.

In the context of CRS, the Organisation for Economic Co-operation and Development's (OECD's) Global Forum is tasked with monitoring compliance across participating jurisdictions. Of relevance, the most recently published Global Forum (November 2024), notes that most jurisdictions have appropriate CRS legal frameworks in place with the next step being the continuation of reviews of effectiveness in practice. From a New Zealand perspective, this involves Inland Revenue conducting review and oversight activities to demonstrate and report the level of compliance of NZFIs to the OECD Global Forum through the global peer review process.

It is clear that FATCA and CRS have matured past their educational phases and that the focus of NZFIs should now be on ensuring their operational and governance frameworks remain fit for purpose. In a sign of the maturity of the regimes, we thought it would be useful to share an update on the level of Inland Revenue activity in this space, as summarised below:

- Onsite reviews are common, including: sample reviews of self-certification forms completed by account holders; walk-throughs of account onboarding procedures with interest in the interaction of internal systems and how records are maintained; understanding processes for monitoring and responding to changes in circumstances; and reviewing written policies and procedures.
- Continued distribution of the CRS annual questionnaire. This year's questionnaire is similar to the prior year though please note that it now requests the total number of "pre-existing accounts", "new accounts" and accounts "with a valid self-certification".
- Oversight activity including requests for the explanation of the CRS status of certain entities. For example, letters circulated to a number of trusts requesting an explanation as to why they have not registered as a NZFI noting that such entities can be NZFIs where they invest in financial assets (e.g. shares and bonds) and are managed by a discretionary investment management service provider (such as a wealth adviser or bank). We have also seen requests to confirm the criteria for non-reporting NZFI or excluded account status is met.
- Focus on compliance with the FATCA missing tax identification number (TIN) rules to ensure that NZFIs correctly report missing US TIN codes for pre-existing accounts. In this regard, the IRS issued Notice 2024-78 in October 2024 which extends and adds to Notice 2023-11 (December 2022), which outlines the procedures that should be followed to avoid IRS activity that could start the process of potentially revoking FATCA status. This takes 18 months from notification of non-compliance and highlights a real economic cost as FATCA withholding could be suffered on any US-sourced income. To remain compliant, foreign financial institutions (FFIs) must report the date of birth and use prescribed TIN codes where a US TIN has not been obtained for a pre-existing account. There is also an expectation that FFIs have procedures in place to make reasonable efforts to obtain missing US TINs on an annual basis and evidence that these actions have been taken.
- Analytical review of reporting information submitted to assess the quality of data and request corrections and/or deletions before the exchange of information to foreign jurisdictions. Please note that Inland Revenue has a 3-month window to 30 September to review and exchange reporting information to foreign jurisdictions.

It remains critical that NZFIs continually monitor and review their FATCA and CRS compliance to ensure that their policies, procedures, systems, and controls are fit for purpose. We encourage NZFIs to thoroughly consider their responses to any Inland Revenue correspondence received and consider working through Inland Revenue's CRS reporting year-end checklist to self-assess their overall compliance framework (available on Inland Revenue's website, amongst other useful related resources). NZFIs can also consider completing health check reviews to identify and address any gaps/remediation required, as an action to demonstrate and maintain comfort of governance/compliance ahead of any potential Inland Revenue review activity. To the extent there are gaps or errors these should be actively addressed and remediated as Inland Revenue is encouraging voluntary disclosures with clear messaging that penalties will otherwise be considered (and applied).

Please contact your usual Deloitte advisor if you have any questions, would like assistance with your annual reporting or would like to discuss how we can help you complete a health check review of your FATCA and CRS compliance framework.

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To learn more about FACTA, CRS and current Inland Revenue activity register for our webinar on

21 May 2025 11am

CLICK TO REGISTER

Now Live: Inland Revenue works with tax advisors to launch Participating Advisor framework

By Viola Trnski, Haidee Watkin, Troy Andrews and Jeanne Du Buisson

Inland Revenue has announced the launch of the Participating Advisor framework. This represents a pioneering step forwards in the management of tax governance and compliance in New Zealand.

The Participating Advisor initiative is a novel framework that overlays review products and can cover:

- tax governance policy and processes,
- data analytics in relation to GST-specific risks
- general GST systems and processes
- data analytics in relation to specific employee remuneration/benefits, and
- general remuneration systems and processes, including FBT.

Where a relevant review report is shared with Inland Revenue, they will accept the review outcomes and not undertake separate testing. As Inland Revenue's recent spotlight on organisations' tax governance and increased audit activity is set to continue through 2025, periodic tax type reviews will form an important part of tax governance, not only giving organisations some comfort that they are complying with relevant tax legislation but also providing Inland Revenue with comfort that an external party has reviewed that tax type.

The Participating Advisor initiative is available to taxpayers with a turnover of at least $30 million or 50 employees.

How do I initiate a review?

A Participating Advisor review can be initiated in two ways:

1. Undertaken as part of an organisation's tax compliance activities and the review can be used to protect against any future Inland Revenue audit/review activities, or
2. Undertaken in order to pause or potentially replace Inland Revenue audit/review activities, if the scope and timeframes align with Inland Revenue's activities.

Why Participating Advisor?

In contrast to an Inland Revenue investigation, a Participating Advisor review gives you control over timing and access to a team of experts that can identify and implement opportunities (rather than only risks). More generally, a Participating Advisor review can be implemented proactively to identify potential gaps, and ensure these are addressed and the business is in the best possible tax position going forward.

What can I expect from a Participating Advisor Review?

Specialist teams will work with you through questionnaires that have been tailored to both industry/client specific risks and align with Inland Revenue's questioning. These interviews will take place around your finance teams busy schedules and in a flexible way to minimise disruption to your organisations. As a deliverable you will receive a traffic light report with identified risks and potential opportunities for your organisation. These reports are not automatically shared with Inland Revenue, unless the organisation is using it as evidence of a periodic review in a review or audit scenario.

Want to find out more?

The Participating Advisor framework officially went live on 3 April 2025. If you would like to know more, or alternatively discuss other ways you can strengthen your business's tax governance, please get in touch with your usual Deloitte advisor.

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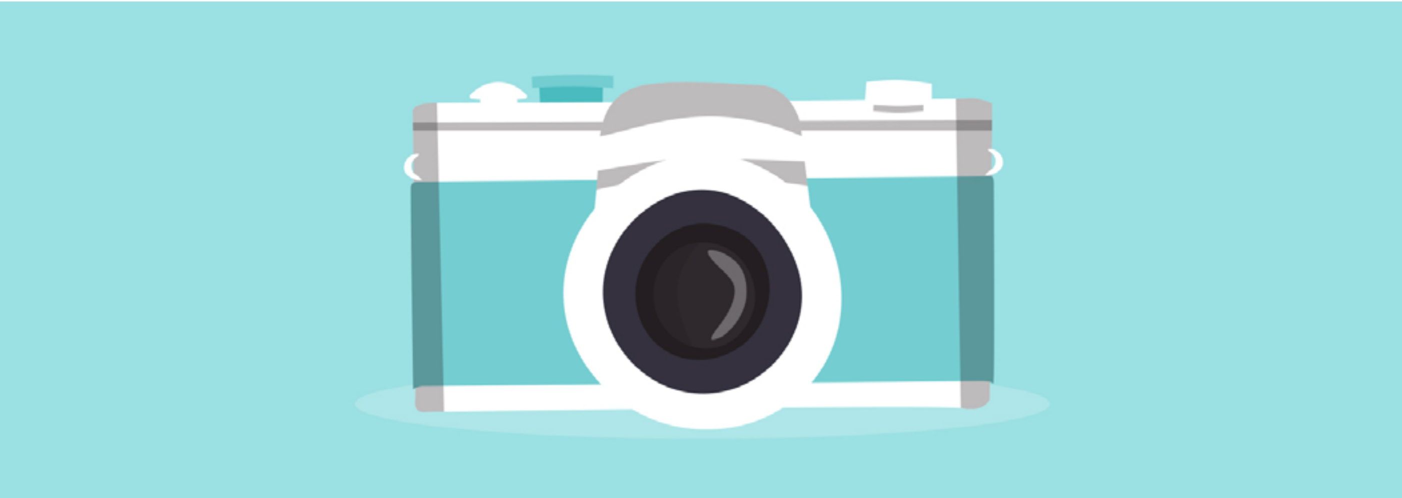
Snapshot of recent developments



Tax legislation and Policy Announcements

Trust disclosure post-implementation review

On 7 April 2025, Inland Revenue published a post-implementation review of the increased disclosure requirements introduced in December 2020 for trustees for the 2021-22 and later income years. Inland Revenue made several recommendations based on this review.

Also published was the disclosure data and an independent report on the review and disclosure requirements.

Government discussion document: GST and unincorporated joint ventures

On 7 April 2025, Inland Revenue published a government discussion document GST and unincorporated joint ventures. The document considers possible reforms to GST policy settings for joint ventures (JVs).

For GST purposes a JV is an unincorporated body, which is treated as a separate person similar to a company. A common practice in some industries that use JVs is for the members to individually account for GST on supplies made or received in the course of the venture in their own GST returns. However, draft Inland Revenue guidance concluded that these practices are not correct under the current rules for unincorporated bodies. This gives rise to a problem for certain types of JVs as they are unable (or would prefer not to for compliance cost reasons) to register for GST, so this treatment means that technically input tax deductions cannot be claimed.

The main policy proposals address these identified problems. If, following public consultation these proposals are progressed, they would require legislative changes and could be included in the August 2025 Tax Omnibus Bill. The deadline for submissions is 16 May 2025.

Use of money interest (UOMI) rates change

On 10 April 2025, Inland Revenue announced that from 8 May 2025 the UOMI rates on underpayment and overpayments of tax will change. The new rates are:

- underpayment 9.89% down from 10.88%
- overpayment 3.27% down from 4.30%.

FBT prescribed rate of interest reduced for employment-related loans

On 10 April 2025, the Income Tax (Fringe Benefit Tax, Interest on Loans) Amendment Regulations 2025 were notified in the NZ Gazette. The regulations, which come into force on 8 May 2025, reduce the rate of interest that applies for FBT purposes to employment-related loans from 8.41% to 7.38%. The new rate applies for the quarter beginning 1 April 2025 and for subsequent quarters.

Inland Revenue Statements and Guidance

Determination: FDR rate many not be used to calculate FIF income in share classes

On 26 March 2025, Inland Revenue issued the following determinations:

- FDR 2025/03: Determination the fair dividend rate may not be used to calculate FIF income by investors in Institutional Cash Series plc: BlackRock ICS US Dollar Liquidity Fund – Premier (Dis) Shares
- FDR 2025/04: Determination the fair dividend rate method may not be used to calculate FIF income by investors in Institutional Cash Series plc: BlackRock ICS US Treasury Fund – Premier (Dis) Shares

Both apply for the 2025 income year and subsequent income years.

Operating Statement: Valuation of livestock

On 31 March 2025, Inland Revenue issued OS 25/02: Valuation of livestock. The operating statement describes the options available to taxpayers who are in the business of farming to value their livestock on balance date. The statement also includes commentary on changes to section EC 1 as part of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025.

Determination: 2025 International tax disclosure exemption

On 31 March 2025, Inland Revenue issued ITR36: 2025 International tax disclosure exemption. The scope of the 2025 disclosure exemption is the same as the 2024 disclosure exemption. This exemption applies for the income year corresponding to the tax year ended 31 March 2025. The 2025 disclosure exemption removes several requirements.

Interpretation Statement: Employer obligations for employee share scheme benefits paid in cash

On 31 March 2025, Inland Revenue issued IS 25/06: Employer obligations for employee share scheme benefits paid in cash and accompanying fact sheet.

The statement explains an employer's PAYE, student loan and KiwiSaver obligations when an employee receives a benefit under an ESS that is paid in cash. This replaces IS 24/05 and takes into account amendments in the Accident Compensation Act 2001 by the Taxation (Annual Rates for 2024-25, Emergency Response, and Remedial Measures) Act 2025.

The Annual Rates Act amendments means that ACC earners' levy will not apply to cash-settled ESS benefits. This aligns the treatment of cash-settled and share-settled ESS benefits and simplifies the processing of employment income information returns for ESS benefits.

The change is retrospective from 1 November 2024.

Interpretation Statement: PAYE – How an employer funds the tax cost on an employee share scheme benefit

On 31 March 2025, Inland Revenue issued IS 25/07: PAYE – How an employee funds the tax cost on an employee share scheme benefit. The statement explains an employer's withholding and reporting obligations related to PAYE, student loans and KiwiSaver if an employer wants to fund the cost of tax (and student loan, if applicable) on an ESS benefit provided in shares. This replaces IS 24/06 and takes into account amendments in the Accident Compensation Act 2001 by the Taxation (Annual Rates for 2024-25, Emergency Response, and Remedial Measures) Act 2025. The amendments relate to removing references to ESS benefits "provided shares" and section RD 78.

Inland Revenue: Return filing and record keeping

On 31 March 2025, Inland Revenue advised that the following changes have taken effect as part of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025:

- From 1 April 2025, organisations that only have exempt income, such as charities or other exempt entities, do not need to file an income tax return.
- From 29 March 2025, records may be kept in te reo Māori.

Product Ruling: Taxi Limited

On 31 March 2025, Inland Revenue issued BR Prd 25/01: Taxi Limited. This Arrangement is the lending of amounts by Taxi Limited to its clients secured by the client transferring by way of security their entitlement to amounts deposited in the tax pooling account operated by Tax Traders Limited. It relates to the imputation credit treatment of the transfer of tax credits under the Arrangement. It applies from 1 April 2025 to 31 March 2028.

Inland Revenue: Business Industry Classification updates for the vape and e-cigarette industry

From 1 April 2025, new Business Industry Classification codes apply to businesses in the vape and e-cigarette industry

Inland Revenue: Employer's guide IR335 – updates

On 1 April 2025, the Employer's guide IR335 was updated.

Inland Revenue: Tax agent Extension of Time agreement

On 1 April 2025, the Extension of Time agreement for the filing period April 2025 to 31 March 2026 was updated.

Inland Revenue: Individual income tax – IR3s for 31 March 2025

On 1 April 2025, Inland Revenue reminded tax agents to not file any clients' 2025 IR3 returns until all reportable income has been filed with Inland Revenue, including PIE income information. PIEs have until 15 May to provide income information to Inland Revenue.

IR3s should not be filed, unless you are certain the taxpayer does not have:

- salary and wages
- investment income, such as bank interest
- dividends
- PIE income (including KiwiSaver).

Tax Information Bulletin: Volume 37, Number 3 (April 2025)

On 1 April 2025, Inland Revenue published TIB Vol 3, No 1 (February 2025), which covers:

Determinations

- NSC 2025: National Standard Costs for Specified Livestock Determination 2025
- ITR36: 2025 International tax disclosure exemption

Interpretation statement

- IS 25/04: What an employee share scheme is, the taxing date and apportionment

Technical decision summary

- TDS 25/02: Financing arrangement to fund the refurbishment of a capital asset
- TDS 25/03: GST – Output tax deductions, shortfall penalties
- TDS 25/04: Deductions and shortfall penalties
- TDS 25/05: GST - input tax, taxable
- TDS 25/06: Receipt of funding

Public Guidance work programme (April 2025)

On 1 April 2025, the updated Public Guidance work programme was published.

Inland Revenue: Home detention for tax offences

On 3 April 2025, Inland Revenue published details of an Auckland woman sentenced to 12 months home detention for tax offences involving more than $500,000. She was charged with aiding or abetting a company she controlled to make PAYE deductions which it didn't pay to Inland Revenue. More than $2m in "drawings" was transferred to her personal bank accounts, along with "wages" of nearly $500,000. The total core tax that remains unpaid is $558,884.58, with the court ordering reparations of $13,000 paid at $50 per week.

Questions We've Been Asked: tax implications of short-stay accommodation

On 3 April 2025, Inland Revenue published five updated Questions We've Been Asked. These replace six items published in 2019 to account for several legislative changes:

- QB 25/01: Income tax – Which rules apply if I rent out my home, part of my home, or a separate dwelling on my property as short-stay accommodation?
- QB 25/02: Income tax – Which rules apply if I have a dwelling I sometimes rent out as short-stay accommodation and also sometimes use privately?
- QB 25/03: Income tax – How do the mixed-use asset rules apply if I provide short-stay accommodation?
- QB 25/04: Income tax – How do the standard tax rules apply if I provide short-stay accommodation?
- QB 25/05: Income tax – If property held in a trust is rented out for short-stay accommodation, who declares the income and what deductions can be claimed?

The substantive changes to these items relate to:

- the GST online marketplace rules (income tax implications),
- the residential rental ring-fencing rules,
- the interest limitation rules,
- a change of view in relation to the depreciation for mixed-used chattels, changes to the thresholds for depreciation and provisional tax.

Product Ruling: Electric Bikes NZ Limited

On 3 April 2025, Inland Revenue published BR Prd 25/02: Electric Bikes NZ Limited. The Arrangement is Electric Bikes NZ Limited's (trading as The Wheel Deal) provision of self-powered or low-powered commuting vehicles (Equipment) to the Employees of The Wheel Deal's customers, where the Employees agree to a temporary reduction in salary in return for the provision of the Equipment. The Equipment can be a bicycle, electric bicycle, scooter or electric scooter. It applies from 17 February 2025 to 2 April 2028.

The Arrangement is an excluded fringe benefit and is a valid salary sacrifice so there is no PAYE income.

Interpretation Statement: Using the cost method to determine foreign investment fund (FIF) income

On 4 April 2025, Inland Revenue published IS 25/12: Income tax – Using the cost method to determine foreign investment fund (FIF) income. This Interpretation Statement explains when a NZ tax resident investor can choose to apply the cost method to calculate their FIF income on shares held in foreign companies. It includes some examples on when an independent valuation may be required to apply the cost method and how the cost method can be applied.

Interpretation Statement: Income tax – Partnerships (including limited partnerships) – general guidance

On 4 April 2025, Inland Revenue published: IS 25/11: Income tax – Partnerships (including limited partnerships) – general guidance. This Interpretation Statement provides general guidance on the income tax treatment of partnerships. Most of this statement is relevant to both general and limited partnerships. The rules are largely the same for both types of partnership, however the statement explains where the rules differ, in particular the deduction limitation rule. The statement also references existing guidance issued on specific partnership issues.

Publication had been delayed while changes to the taxation of partnerships and limited partnerships were implemented as part of the Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act.

Interpretation statement: Income tax and GST – Amalgamations

On 4 April 2025, Inland Revenue published 25/10: Income tax and GST – Amalgamations. It provides guidance on the tax treatment of company amalgamations, the rules of which are mostly found in subpart FO. It does not address the tax treatment of losses on amalgamation or how an amalgamated company calculates its available subscribed capital (refer to IS 25/09 and QB 25/06 – discussed below).

The amalgamation rules generally provide tax concessions when an amalgamation is a concessionary amalgamation. The amalgamation rules may also apply to amalgamations that do not fit the criteria for a concessionary amalgamation (non-concessionary amalgamation). The statement indicates where the tax treatment differs between concessionary amalgamations and non-concessionary amalgamations.

Table 1 (p. 5) summarises the provisions in subpart FO as well as identifying the starting paragraph in the statement where the provision is discussed.

Interpretation statement: Tax treatment of losses on amalgamation

On 4 April 2025, Inland Revenue published IS 25/09: Tax treatment of losses on amalgamation. The Interpretation Statement states that where losses are incurred before an amalgamation by an amalgamating company, an amalgamated company or another company that is within the group but not a party to the amalgamation, these losses can be used after the amalgamation.

The general tax loss rules apply to the tax losses of an amalgamated company that arise after amalgamation. However, subpart IE applies to tax losses of an amalgamated company, amalgamating company or a non-amalgamating group company, that arise before amalgamation.

The statement covers:

- Concessionary amalgamations
- Non-concessionary amalgamation
- The tax losses of an amalgamated company
- Tax losses of a non-amalgamating group company arising before amalgamation shared with an amalgamating company
- Ordering rules.

Questions We've Been Asked: How does an amalgamated company calculate its available subscribed capital following an amalgamation?

On 4 April 2025, Inland Revenue published QB 25/06: How does an amalgamated company calculate its available subscribed capital following an amalgamation? It replaces QB 13/02: Income tax – Determining the "subscriptions" amount for an amalgamated company under the available subscribed capital rules and QB 14/05: Income tax – ASC rules – Calculating the "subscriptions" amount for an amalgamated company when the shares of an amalgamating company are held by another amalgamating company.

An amalgamated company calculates its ASC using the formula:

1 July 1994 balance
+ (add) subscriptions
– (subtract) returns
– (subtract) look-through company returns

The definitions of "subscriptions" and "returns" are modified for an amalgamated company.

Interpretation statement: Implications of a residential property moving between the standard tax rules and the mixed-use asset rules

On 4 April 2025, Inland Revenue published IS 25/08: Income tax – implications of a residential property moving between the standard tax rules and the mixed-use asset rules. This interpretation statement considers situations where a person's use of their residential property has changed so the property moves from being under one set of income tax deduction rules to another. It explains how a person determines which income tax deduction rules apply and the consequences of moving between the standard tax rules and the mixed-use asset rules.

Two fact sheets have also been published:

- IS 25/08 FS 1: Income tax – residential property moving from mixed-use asset rules to standard tax rules
- IS 25/08 FS 2: Income tax – residential property moving from standard tax rules to mixed-use asset rules

Inland Revenue: GST on listed services – factsheet updates

On 4 April 2025, Inland Revenue advised that they have updated their factsheets:

- AD277 - GST on listed services - drivers, deliverers and accommodation owners
- AD278 - GST on listed services - online marketplaces
- AD282 – GST on listed services - property managers and agents.

Inland Revenue has also created a new factsheet:

- AD283 – Flat-rate credits and income tax

Inland Revenue has also updated the special report GST on accommodation and transportation services supplied through online marketplaces.

Interpretation Statement: Income tax and GST – forestry activities registered in the Emissions Trading Scheme

On 7 April 2025, Inland Revenue published IS 25/13: Income tax and GST – forestry activities registered in the Emissions Trading Scheme. The Interpretation Statement considers the tax consequences for forestry activities registered in the Emissions Trading Scheme, including the tax consequences of receiving, selling and surrendering emissions units (NZUs), as well as the tax treatment of specific transactions involving NZUs.

Inland Revenue: Tax Toolbox campaign to encourage tradies

On 7 April 2025, Inland Revenue confirmed it will be running the next round of the Tax Toolbox campaign between April and June.

Inland Revenue: Small Business Cashflow (SBC) loan scheme

On 8 April 2025, Inland Revenue reminded that the SBC Loan Scheme will reach its 5-year anniversary shortly and will expire for taxpayers who have a 5-year loan. Any unpaid loan balance (plus interest) at the end of the loan's term will automatically default. Inland Revenue will treat this as overdue debt. Inland Revenue may also charge default interest on overdue loans. From mid-April, Inland Revenue will start to send reminder letters directly to some taxpayers in their myIR accounts to notify them that their loans are expiring. These reminder letters will not follow the mail redirect, but you can still view them in myIR.

Inland Revenue: FBT common errors campaign

On 9 April 2025, Inland Revenue began a digital advertising campaign on common FBT errors which runs to 30 May. Inland Revenue hopes to make taxpayers aware of the most common FBT errors, educate taxpayers on what to do if they find an error and encourage taxpayers to seek help from tax agents.

Draft Interpretation Statement: The Commissioner's duty of care and management – section 6A of the Tax Administration Act 1994

On 10 April 2025, Inland Revenue issued PUB00484: The Commissioner's duty of care and management – section 6A of the Tax Administration Act 1994 and a reading guide. It explains the Commissioner's responsibilities under section 6A and the factors that must be taken into account under section when exercising his care and management discretion. The deadline for comment is 26 May 2025.

Inland Revenue: Pilot for new tax debt service

On 10 April 2025, Inland Revenue began trialling a new service to contact and help (individual) taxpayers manage debt. The pilot will see Baycorp contact about 3,000 taxpayers who have a tax debt of less than $5,000. The pilot starts today and runs for 5 months. Baycorp cannot "collect" the debt and can only contact taxpayers, confirm the debt and promote Inland Revenue's self-service options for payment.

Inland Revenue: Participating advisor initiative

On 11 April 2025, Inland Revenue announced the participating advisor initiative. Further information on participating advisor reviews can be found on the Inland Revenue website.

Inland Revenue: Correction to the client list and filing statistics update

On 14 April 2025, Inland Revenue published a correction to the client list and fling statistics update.

Operating Statement: Authority to Act for Tax Agents, Representatives, and Nominated Persons: Access to a Client's Inland Revenue information

On 17 April, Inland Revenue published OS 25:03: Authority to Act for Tax Agents, Representatives, and Nominated Persons: Access to a Client's IR information. This statement prescribes how a tax agent, or a representative can obtain the authority to act from their clients and the process for a person to get another person to act for them in relation to their tax affairs and/or their social policy entitlements and obligations. It replaces OS 22/03.

Inland Revenue: New Provisional Tax issues for returns filed since 17 March 2025

On 23 April 2025, Inland Revenue announced they have identified issues with provisional tax returns filed since 17 March 2025 and provided advice about them. Inland Revenue is working on a fix.

Technical Decision Summary: GST – Zero-rating, input tax deductions, shortfall penalties (Adjudication)

On 26 March 2025, Inland Revenue published TDS 25/07: GST – Zero-rating, input tax deductions, shortfall penalties. It related to an individual who claimed input tax deductions, claiming they were acting as agent for overseas customers and involved in freight-forwarding. The Tax Counsel Office determined the Taxpayer was not carrying on a taxable activity so could not charge GST at 0% or claim input tax deductions. The Taxpayer was liable for shortfall penalties for gross carelessness.

Technical Decision Summary: Disposal of shares following amalgamation (private ruling)

On 14 April 2025, Inland Revenue published TDS 25/08: Disposal of shares following amalgamation. It related the amalgamation of several related companies that collectively held shares in E Ltd and the sale of these shares after amalgamation. The Tax Counsel Office concluded the amalgamation was a resident's restricted amalgamation and amounts derived from the disposal of shares were not taxable income.

Deloitte Global Perspectives

2025 Global Tax Policy Survey: Shaping the path forward

On 29 April 2025, Deloitte published the 2025 Global Tax Policy Survey: Shaping the path forward. Deloitte gathered insights from over 1,100 tax executives, across 28 countries and a range of company sizes to understand how they are adapting to the dynamic global tax environment. Respondents ranked the impact of five tax themes as follows:

1. Transparency & Reporting
2. Digitisation of Tax
3. Sustainability
4. International Tax Reform
5. The Future of Work

While the top two themes remain consistent with last year's survey, Sustainability has risen in importance to number three. Trade and Tariffs continue to be a fast-moving focus for all aspects of the tax function. While the survey was conducted prior to the announcements by the US administration in March 2025, respondents clearly indicated a high level of concern and anticipated impact going forward regarding reporting and supply chain implications.

Key highlights from the report

82% of respondants expect **increased levels of public tax disclosure**, driven by mandatory reporting regimes and voluntary disclosures.

86% of respondants reported **progress towards** adopting the **Tax Administration 3.0 model**.

Sustainability has risen from fifth to **third place** in importance, with **55%** of respondants prioritizing it as a **top business priority**.

Opinions are divided on whether, and how far, **Pillar Two implementation** would increase complexity in the tax system.

Cross-border remote working continues to present challenges, with primary **concerns around corperate tax** (76%), **employee taxes** (69%), and **social security** (58%).

Deloitte Trade Compass Webinar – Invitation

On 15 May 2025, Deloitte Tohmatsu (Japan) and DT GTA & Technologies Co Ltd will be hosting a free live webinar Optimising Global Trade Strategies in a Dynamic Tariff Environment: Technology-driven solutions for tariff cost visibility and risk management. This webinar will provide an update on current global tariff policies, outlining necessary steps businesses should take to navigate this complex landscape. It will also showcase Deloitte Tohmatsu's digital service, "Trade Compass", as a practical solution for tariff cost visualisation and risk analysis. The webinar will be held on Thursday 15 May 2025 4pm – 4:55pm (NZT) and you can register here.

OECD Updates

Inclusive Framework issue Pillar Two statement

On 11 April 2025, the Inclusive Framework completed its 7th Plenary meeting of the OECD/G20 Inclusive Framework on BEPS. The result is a public statement issued by the Inclusive Framework agreeing to continue discussions on the Two-Pillar Solution.

New research on Research & Development tax incentives

On 22 April 2025, the OECD released new statistics on Research & Development tax incentives. Thirty-four out of 38 OECD countries granted tax relief for R&D expenditures in 2024.

OECD Secretary-General Report on the work of the Inclusive Forum on Carbon Mitigation Approaches

On 23 April 2025, the OECD released the Secretary-General's Report to G20 Finance Ministers and Central Bank Governors on the work of the Inclusive Forum on Carbon Mitigation Approaches

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

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