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Tax Alert

Shortfall penalties surge as Inland Revenue sharpens its compliance focus

01

Election Tax Policies, Part Two 04

Podium Case: Capital v revenue, the enduring debate 07

Inland Revenue digs deeper into horticulture 09

Has your business been making the most of the Government incentives for R&D? 12

Mortgage cashbacks What does Inland Revenue say? 14

Snapshot of Recent Developments 17

Shortfall penalties surge as Inland Revenue sharpens its compliance focus

By Angus Isherwood, Amy Sexton and Robyn Walker

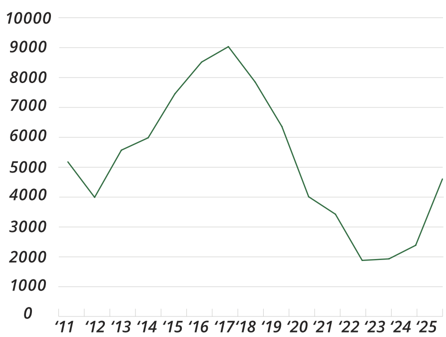
Inland Revenue continues to crack the whip on non-compliant taxpayers according to the recent Inland Revenue report on the application of shortfall penalties, with the number of penalties imposed by the Inland Revenue in the 30 June 2025 year nearly double the number imposed in 2024. Deloitte has been tracking the trends over time to show the bigger picture.

The bigger picture

Shortfall penalties (SFPs) are civil penalties imposed on taxpayers who take an incorrect tax position that results in the underpayment of tax (a tax shortfall). SFPs are designed to encourage taxpayers to voluntarily comply and "get it right from the start".

The total number of SFPs imposed in the 2025 tax year was 4,306, a marked increase from the 2,392 imposed in 2024. This reflects a return towards pre-COVID levels, although still well below the peak of more than 8,000 SFPs being imposed in each of 2016 and 2017.

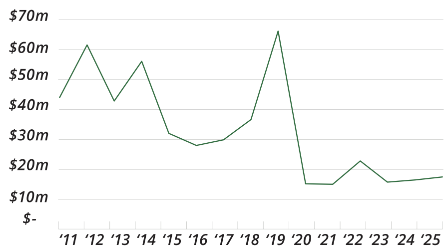
Total number of shortfall penalties *(2011-2025)*



However, the total dollar value of the penalties imposed hasn't kept up with the raw number. The 2025 income year penalties were only worth 6% more in total than in 2024.

This indicates that while there have been more discrepancies identified, they involved smaller shortfall amounts of tax, on average. It's worth noting that the total penalty statistics are net of reductions, for example, the 100% reduction for certain voluntary disclosures.

Total dollar value of penalties imposed *(2011-2025)*



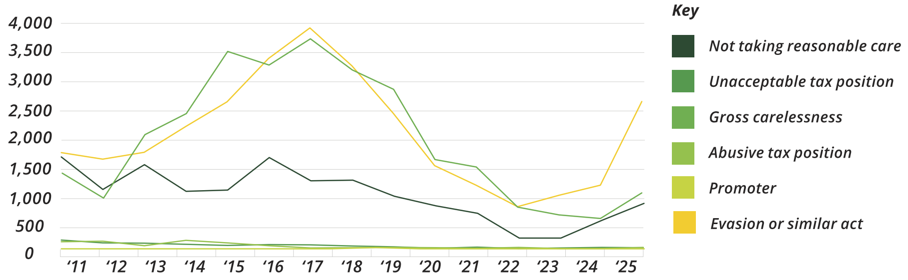
Areas of focus

There are a range of SFPs that can be imposed depending on the nature of the taxpayer's infringement, each coming with a prescribed percentage penalty on shortfall amount. While there were increases for different types of shortfall penalties across the board, "gross carelessness" penalties increased disproportionately compared to other SFPs (a huge 122% from 1,190 in 2024 to 2,639 in 2025).

As the name suggests, a gross carelessness penalty of 40% is imposed when the taxpayer does, or fails to do, something that has a high likelihood of creating a tax shortfall, which would be foreseeable to a reasonable person. It is more than just a simple mistake or a minor lack of reasonable care. Whether a taxpayer has been grossly careless may be influenced by their level of education and experience in tax and/or business. Examples provided in Inland Revenue guidance include situations where taxpayers have been advised to obtain tax advice for their activities but fail to do so, or where a business fails to remedy deficiencies in its internal processes after experiencing tax shortfalls in the past.

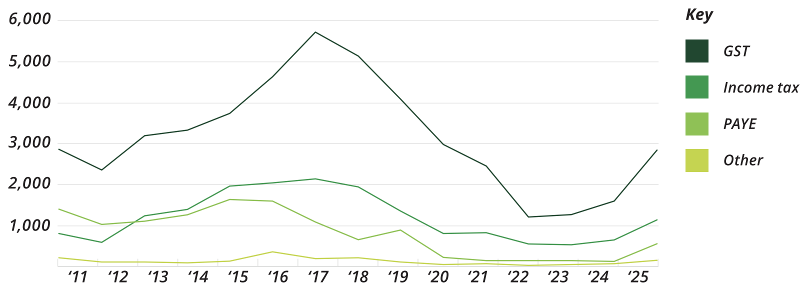
Elsewhere, penalties for evasion (deliberately evading tax obligations) 71% increase, and not taking reasonable care (carelessness in taking a tax position) 57% increase, have also seen notable increases from 2024 to 2025. The imposition of the abusive tax position penalty (taking a tax position primarily to avoid paying tax) saw a 300% increase in the number of times it was imposed between 2024 and 2025, however when looking at the dollar value of the penalty amount payable, there was a significant drop from almost $3 million in 2024 to $155,587 in 2025, indicating that while more avoidance cases were identified in 2025, the amounts in question may have been more trivial in nature.

***Number of penalties by penalty type** (2011-2025)*

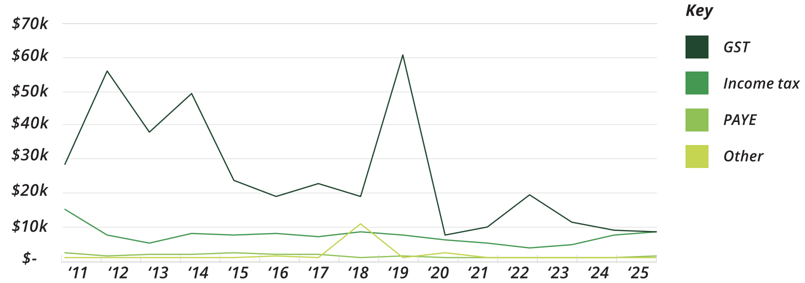


The types of tax liabilities giving rise to SFPs in 2025 have remained roughly proportional compared to 2024. Interestingly, the steady rise in SFPs being imposed for GST shortfalls has continued its steady rise which started in 2022. In fact, the value of penalties imposed (just under $8 million) on GST shortfalls in 2025 is the highest in almost 15 years and has managed to surpass income tax for the first time since we began keeping records in 2011. This may be a sign that it would be timely to conduct a review of your internal GST processes to avoid becoming one of these statistics.

***Incidence of penalties by tax type** (2011-2025)*

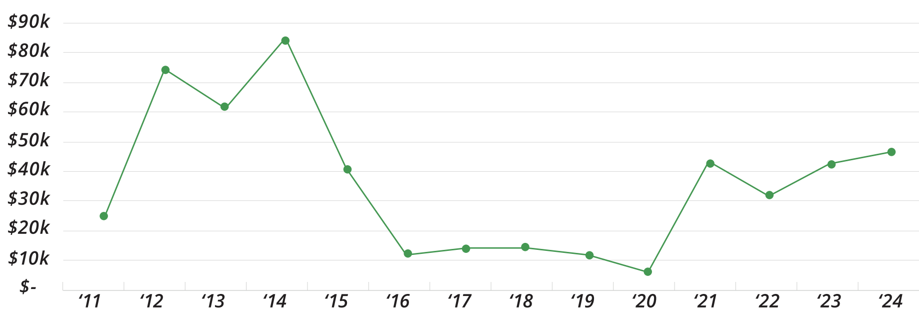


***Dollar value of penalties by tax type** (2011-2025)*



Meanwhile, reductions granted on SFPs are up a significant 16% on 2024. Inland Revenue attributes the increase mostly to taxpayers making voluntary disclosures before being notified of an audit (discussed further below).

***Dollar value of reductions** (2011-2024)*



Best practice to protect your business

Broadly, the report demonstrates that the Inland Revenue is taking an active approach to enforcing compliance and should serve as a reminder that mistakes can be costly. An earlier Inland Revenue report evaluating the direct effects of compliance activity highlighted that Inland Revenue is getting a consistently high return year-on-year on money spent on compliance activities, such as conducting audits and as such, we expect to see Inland Revenue further ramp up their enforcement activities.

It is crucial for businesses to have robust systems in place to address potential issues at the source. Generally, this would include measures such as comprehensive reviews throughout the tax return preparation process, clear roles and chains of accountability, and proper oversight. There are numerous steps that a business can take to manage risk. The most appropriate will depend on the nature of each individual business (see our December 2025 Tax Alert article on Tax Governance).

What should I do if I think I may be at risk?

With that in mind, not everything will go perfectly all the time, and it is inevitable that situations giving rise to a shortfall penalty will occur. If you think there is a chance that you may be liable for a shortfall penalty and want to limit your exposure, your options are simple: come clean or live with the risk of being caught. A taxpayer who discloses their tax shortfall before Inland Revenue discovers it could potentially have any penalties imposed reduced by up to 100% if the disclosure is made before an audit is commenced.

If you are seeking advice on what good tax governance looks like, are considering a participating advisor review, or you are concerned that you may have an issue and need advice on what to do, please contact your usual Deloitte advisor.

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Election Tax Policies, Part Two

By Robyn Walker

Tax policy can decide elections, and Election 2026 may be no exception. Election campaigns inevitably involve fiscal promises, and those commitments must be funded through reprioritised spending, additional debt, higher tax or another mechanism.

With the election less than three months away, Tax Alert will be summarising what is on offer as details emerge. [Last month](#) we covered the detailed policies released by the Green Party and The Opportunity Party, and this month we consider what i s on offer from the Labour Party, so far.

CGT-lite

In comparison to the substantive new taxes being proposed by the Green Party and The Opportunity Party, the Labour Party comes across as far more centrist, with a very moderate capital gains tax (CGT) proposed late last year. The capital gains tax is targeted only at commercial and residential property gains made on or after 1 July 2027. Having learned in prior election campaigns that a broad CGT has not been a vote winner, this attempt is scaled back to a level that some traditional detractors may simply shrug off; the largest criticism comes from those who want a more comprehensive tax.

The approach of targeting property has links back to the Cullen Tax Working Group. The TWG recommended a comprehensive CGT, but there was a dissenting Minority View which considered that only residential rental property warranted additional tax, whereas other asset classes, including commercial buildings, were likely to cause higher complexity, including the need for roll-over relief, compliance costs and inconsistencies that exceeded any taxing benefits. The Labour Party policy deviates from the Minority View by including commercial property in scope, and not limiting residential property to rental property.

The expected revenue from the CGT will be ring-fenced to invest in health spending, including funding three free doctor visits each year for all New Zealanders.

The detail from the policy:

In-scope: commercial property and residential property

Exemptions: family home (including lifestyle blocks), farms, inheritances, KiwiSaver, shares, businesses and personal items

Commencement: Applies to gains arising from 1 July 2027

Roll-over relief: Small businesses selling their premises to buy a bigger one will not be taxed

Other exclusions: Transfers between spouses, civil union partners, de facto partners, or those relationships ending or on death

Rate: Flat rate of 28%

Taxing point: Time of sale |Losses: Capital losses may be carried forward but can only be offset against future property gains

Comment

As far as CGT goes, this is modest, which should mitigate the extreme complexity that would come with a more comprehensive capital gains tax. Having the tax apply only to property gains after 1 July 2027 limits some of the complexity that would arise from needing to have a "valuation day" event across all assets, with rateable values being a potential proxy for market value.

However, there would still be complexity, as this is not as simple as changing the bright-line test again. While there were rules when the bright-line test was 10 years, and the existence of CGTs in other countries means there are "solutions", those solutions come at a cost to simplicity. Opponents of CGTs will also view this as the start of a slippery slope, with the risk that more asset types are added to the tax base once the rules are introduced.

Matters to consider include:

- How will the flat rate of 28% work? Will the gains be reported in a separate return and isolated from all other income sources (i.e. not impacting on progressive tax rates) – this seems likely to be the case if the revenue is intended to be hypothecated to pay for doctor's visits.
- If the gain is made by a company, does it then get distributed tax-free to shareholders? Will there be any option for a lower tax rate for gains attributable to owners/shareholders on lower marginal tax rates?
- While a 28% rate is lower than the top marginal tax rate, it is still a high rate for a CGT. CGTs often come with a lower tax rate to recognise that "gains" may not be true gains and may instead represent general price inflation.

- What is the "family home" when there is more than one residence in the family, including a family bach, and what evidential requirements will be necessary to support a claim for exemption? How will the rules apply to family trusts and homes that are lived in by beneficiaries?
- Where is the equity in taxing the sale of a property, but providing a permanent exemption if the property is transferred through an inheritance?
- Shares are specified as being exempt, but the policy materials include an example of the shares in a laundromat business being sold and needing to pay tax on the value attributed to the building owned by the business. We'd expect to see rules which consider whether a company is "land-rich" but not the need to slice and dice every share sale based on what underlying property assets exist.
- The policy references "small businesses" multiple times when discussing roll-over relief, but it's not clear that rollover relief could or should be limited to just small businesses.

The revenue expected to be collected from the CGT will take time to accumulate to any meaningful amount. With that revenue already earmarked for health spending, it casts doubt over whether other tax settings could or should be revisited as a consequence of the CGT, for example, reinstating building depreciation and removing residential rental ring-fencing rules.

Small Business Action Plan

In early August, the Labour Party released details of a Small Business Action Plan, which is largely focused on tax changes. Significantly, the small business action plan is funded through the repeal of Investment Boost for all businesses.

The tax proposals are:

- Increase the low-value asset threshold from $1,000 to $10,000 for small businesses with turnover below $10 million from 1 July 2027.
- Increase the GST registration threshold from $60,000 to $80,000 from 1 July 2028.

The Small Business Action Plan also includes a proposal to require large businesses to pay small suppliers within 15 days when they are invoiced for supplies costing $25,000 or less.

Large businesses will be expected to report on payment times, and small businesses will be able to report late payments to the Ministry of Business, Innovation and Employment (MBIE), with the potential for penalties to be imposed. These payment-time proposals will likely be implemented by reinstating the Business Payment Practices Act 2023, which was repealed by the current government.

The anticipated cost of the tax changes will be $1.56 billion over four years. This compares with the estimated cost of Investment Boost, which was more than $6 billion over four years.

Comment

The increase in the low-value threshold will mean that small businesses will be able to immediately expense the full cost of many assets they acquire, including phones, laptops and other basic assets. However, a $10,000 limit means that more significant purchases that might have more impact on productivity are unlikely to benefit. Under Investment Boost, almost all assets are eligible for the upfront 20% deduction regardless of price, and regardless of business size.

The proposal to repeal Investment Boost before there has been time to properly evaluate its effectiveness is disappointing, but politically, it provides the Labour Party with $4.5 billion of additional revenue that can go toward other spending promises, so it was always in danger of being low-hanging fruit. The ongoing history of political flip-flopping on tax settings will continue to negatively affect New Zealand's ability to be seen as a stable location for investment. The current settings for Investment Boost make the deduction available when the asset is "available for use", so businesses that are currently in the process of making investment decisions or constructing an asset will feel justifiably anxious about this policy. In Budget 2010, when "depreciation loading" was removed from assets, a decision was made to grandparent investment decisions already made and subject to a binding contract. Hopefully, we would see something similar again.

The movement in the GST threshold will be viewed positively by some micro-businesses, but can be seen as simply pushing out the point at which GST compliance costs begin. The New Zealand GST regime is very simple to comply with compared with other jurisdictions, and software tools can already materially reduce any compliance burden.

Conclusion

Tax reform is firmly back on the political agenda for Election 2026, but the details and practical consequences of what is being proposed are getting little airtime. Tax Alert will continue to monitor election tax policies as they are released.

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Podium Case:
Capital v revenue, the enduring debate

By Angus Isherwood & Hiran Patel

The distinction between capital and revenue expenditure is crucial for those carrying on a business, and how they treat certain costs for tax purposes.

Under general principles, expenditure incurred in deriving income is generally deductible, subject to some exclusions, including to the extent that the expenditure is capital in nature. The boundary between capital and revenue expenditure is not codified by statute. Instead, it has been shaped by a long-standing and settled body of case law. Cases testing the boundaries of the distinction rarely appear before the courts, making the recent judgment of *Podium Investments Limited v Commissioner of Inland Revenue* an important and timely reminder of the principles that govern the capital/revenue distinction.

The deductibility of expenditure on repairs and maintenance (R&M) relating to assets is predominantly a question of whether the expenditure is revenue or capital. The leading Privy Council decision in *Auckland Gas Co* established a two-step approach for distinguishing between repairs (revenue) and replacement (capital) expenditure. First, the taxpayer must identify the asset that is being repaired or worked on. Second, they must consider the nature and extent of the work done to that asset. If the work changes the character of the asset or improves it, the expenditure will generally be capital rather than revenue. Inland Revenue's recent guidance on R&M expenditure reinforces that both assessments are highly circumstantial on the facts of a given case.

Podium's 2-million-dollar problem

Podium Investments Limited (Podium) undertook substantial construction work on its mixed-use commercial building after a report found that the building's hollow floors posed an earthquake risk under the New Building Standard (NBS). The work followed the departure of the building's longstanding retail anchor tenant and the signing of a new lease with a replacement tenant, which required Podium to undertake seismic strengthening works to achieve a specified NBS rating.

The construction work was completed in two stages. The first involved the installation of a new glass façade and a range of other refurbishments including upgrades to lighting, air conditioning, a new lift and stairs, and the addition of an atrium. The second round of work was focused on seismic strengthening of structural deficiencies, specifically the repair of a defective beam in the building's carpark and the addition of fibre-reinforced plastic strengthening to the hollow floors.

Initially, Podium applied for a binding ruling from Inland Revenue to confirm whether the total expenditure of $13.7m on all construction work was deductible, which was subsequently denied. Interestingly, by the time Podium's case was heard by the Taxation and Charity Review Authority (the Authority), only the expenditure on the ground floor glazing and seismic works remained in dispute, a fraction of the total amount spent (approximately $2m).

So - was the expenditure capital or revenue?

Based on the evidence before it, the Authority found that both the glass façade and the seismic strengthening work were an integral part of a larger capital project to modernise the building in the hopes of finding a new tenant.

The Authority also held that, considered separately from the wider construction project, both sets of work were capital because they changed the character of the building. Consequently, the Authority denied Podium deductions for both amounts of expenditure.

The High Court was tasked with determining whether the Authority was correct to categorise the disputed expenditure as capital rather than revenue. Following the same two-step test from Auckland Gas Co, the High Court upheld the Authority's findings on all four issues in dispute.

The Judge considered that both the glass façade and seismic works could not be separated from the overall capital project, which was intended to convert the building into "a seismically compliant, desirable office building with functional design and cohesion." Notably, individual work does not become capital merely because it is carried out at the same time as a larger capital project.

Instead, there must be a sufficiently close connection between the two. A similar case, Colonial Motor Co was referred to in the judgment, involved a similar set of circumstances; seismic strengthening was carried out alongside general construction work, and the Court held that there was a single project to transform a derelict warehouse into a functional office block.

Even assessed on a stand-alone basis, both sets of work went beyond remedying defective components and were found to improve the character of the building. The new glass façade was considered functionally and aesthetically superior to the façade it was replacing (noting that modern building standards required strengthened glass to be used), and the seismic work provided a major structural improvement to the function and safety of the building. The High Court therefore found that the work done significantly altered the character of the building.

Principles to take home

Considering the facts at hand, it is unsurprising that the Court found the construction undertaken by Podium changed the character of its building. What makes the present case particularly interesting is not the outcome itself, but the Court's discussion of when work forms part of a wider capital project. Summarising the key legal principles for the deductibility of R&M expenditure:

- When identifying the relevant asset, work that forms part of a wider project may take its character from the project as a whole. If the overall project reconstructs, renews or substantially replaces the asset, the expenditure will generally be capital. Whether particular work forms part of that wider project depends on whether there is a sufficiently close connection between them. Commercial objectives and timing may be relevant, but neither is determinative.
- Moving to the second stage of the assessment, replacement of a component part will generally be considered a repair of the larger object. The exception is if the new component part differs from the damaged original in a way that changes the character of the asset, by improving or enhancing it. The Court also reaffirmed that if the asset was purchased in a defective state, expenditure incurred to bring it to a suitable condition for its use will generally be capital as the costs are not related to remedying wear and tear.

To conclude, the distinction between capital and revenue expenditure is a fine one. There is no concrete definition for what constitutes a close connection to a larger project, or when work will go beyond a mere repair to change the character of an asset. Ultimately, it is the Courts that continue to define the boundary through the cases that come before them, and the *Podium Investments Limited* case is a timely reminder of how the principles are applied in practice. With the removal of tax depreciation on commercial buildings from the 2024/25 income tax year onwards, the capital/revenue distinction in relation to work on commercial buildings will become more important – we may see more taxpayers trying to argue the boundaries of these principles to ultimately seek to claim a deduction (as if the works are capital, they are depreciated at 0%). An alternative option for taxpayers who have made capital improvements to a building after 22 May 2025 is to claim an investment boost deduction.

If you are looking for advice on whether your R&M (or any other type of) expenditure will be deductible, or if you have any questions about *Podium Investments Limited*, please contact your usual Deloitte advisor.

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Inland Revenue digs deeper into horticulture

By Susan Wynne & Victoria Guilford

On 6 August 2026, Inland Revenue issued Revenue Alert RA 26/02: *Noncompliance in the horticultural sector* (the "Alert"), signalling increased compliance activity across the horticulture industry. Inland Revenue considers non-compliance within the sector poses a significant risk to the integrity of the tax system and is increasing its focus on growers, contractors and subcontractors.

While the Alert focuses on specific behaviours, it should not be read narrowly. Inland Revenue has made it clear that the matters discussed are not exhaustive and that further review activity is already under way. In practice, any business operating in the horticultural sector should assume Inland Revenue may seek to understand and test its labour supply arrangements, withholding tax compliance and related tax positions.

The Alert does not introduce new law and does not represent Inland Revenue's final position. Rather, it outlines the Commissioner's current view of compliance risks within the sector and the actions Inland Revenue may take where concerns are identified.

What is Inland Revenue concerned about?

The Alert identifies four areas where Inland Revenue has observed non-compliance or heightened compliance risk:

- Failure by growers and other payers to correctly deduct withholding tax from schedular payments for cultivation contract work;
- Labour contracting arrangements that obscure who is actually supplying labour, including the use of entities that issue invoices for work they did not perform;
- Cash payment practices that can facilitate GST, PAYE and income tax non-compliance; and
- GST registration applications by entities that cannot substantiate that they are carrying on, or intend to carry on, a taxable activity. Inland Revenue has specifically highlighted concerns regarding entities established to issue false invoices.

Inland Revenue considers these arrangements can result in tax not being correctly accounted for or paid, undermine confidence in the tax system, and provide an unfair competitive advantage over compliant businesses. Inland Revenue has also signalled that it will apply greater scrutiny to new GST registration applications within the horticultural sector where the commercial activity being undertaken is unclear.

1. Contractor withholding tax remains a key focus

Many horticultural businesses engage contractors to undertake cultivation activities such as planting, pruning, thinning and harvesting. Payments for this work will often be subject to the schedular payment rules, requiring tax to be withheld from contractor payments before they are made.

Inland Revenue has identified instances where these obligations have not been applied correctly. The withholding rules may apply regardless of the contractor's legal structure, including where the contractor operates through a company (as agricultural, horticultural and viticultural companies are not excluded from the rules, unlike other company types).

Inland Revenue reminds payers that the obligation to withhold generally rests with them unless the contractor has provided a valid certificate of exemption or tailored tax rate certificate. Importantly, withholding obligations can still arise where a contractor has not provided a completed IR330C.

Businesses should ensure they have processes in place to identify when withholding obligations arise and retain appropriate supporting documentation

2. Labour supply arrangements under scrutiny

Inland Revenue is also looking closely at labour supply arrangements within the horticultural sector. The Alert refers to arrangements where one entity invoices for labour while the work is performed by workers engaged by another entity. In some cases, Inland Revenue considers the invoicing entity may have little or no commercial involvement in the arrangement.

Inland Revenue's concern is that these arrangements can obscure:

- who actually supplied the labour;
- who received payment;
- whether subcontracting arrangements genuinely existed; and
- which party was responsible for GST, PAYE, income tax and withholding tax obligations.

Businesses should therefore review existing labour supply arrangements and ensure their contractual documentation, payment flows and operational practices are aligned and accurately reflect what is occurring in practice.

3. Cash payments remain a risk indicator

The Alert highlights Inland Revenue's concern with cash payments, including cash wages paid to workers. While cash payments are not prohibited, businesses relying on cash-based processes should expect closer scrutiny and should ensure they maintain clear records supporting the tax treatment applied for GST, PAYE and income tax purposes.

Businesses should ensure their records clearly demonstrate:

- who was paid;
- what services were provided; and
- how the relevant tax obligations were accounted for.

Robust record keeping will be particularly important where cash forms part of wider labour supply arrangements.

4. New GST registrations may face closer review

The Alert also signals increased scrutiny of new GST registration applications by entities in the horticultural sector. Inland Revenue specifically refers to entities that may have been incorporated for the purpose of issuing false invoices. Where an entity cannot satisfy Inland Revenue that it is carrying on, or intends to carry on, a taxable activity, its GST registration application may be declined.

This is a significant practical point for the sector. New entities, particularly labour contracting entities, may need to provide more substantive evidence of their commercial activities, operational capability and intended taxable activity. This may make GST registration more difficult where the commercial rationale, labour arrangements, customer base, payment flows or supporting records are unclear.

Why does this matter?

The Alert should be treated as a sector-wide compliance signal. Inland Revenue has confirmed risk assessments are under way, further investigations may follow, and review activity may extend beyond the examples discussed.

The consequences can be significant. Non-compliance with withholding obligations, or knowing involvement in tax evasion arrangements, may result in reassessments, recovery action, civil penalties and, in serious cases, prosecution. Evasion penalties can be 150% of the tax shortfall, with convictions carrying fines of up to $50,000, imprisonment for up to five years, or both.

Inland Revenue will also increase its focus on certificates of exemption and tailored tax rates, so businesses should retain current documentation supporting any reduced or nil withholding positions.

Its focus also extends beyond audits and reassessments, including closer GST registration scrutiny, stronger debt recovery and possible information sharing with agencies such as Police, Customs, the Serious Fraud Office, anti-money laundering supervisors and the Labour Inspectorate. The implications may therefore extend beyond tax penalties.

What should businesses do now?

Businesses should not wait until Inland Revenue makes contact. The Alert provides a timely opportunity to review existing processes and arrangements.

Particular attention should be given to:

- whether schedular payment withholding obligations are being correctly identified and applied;
- whether current IR330C forms, certificates of exemption and tailored tax rate certificates are held, and whether certificates remain valid for the relevant tax year;
- contractor onboarding, verification and payment procedures;
- whether labour supply arrangements reflect commercial reality, including who performs the work and who receives payment;
- GST, PAYE and income tax compliance across labour supply chains;
- whether any new or proposed entity can substantiate that it is carrying on, or intends to carry on, a taxable activity for GST purposes;
- the adequacy of records supporting any cash payments; and
- whether any historic issues should be corrected through appropriate engagement with Inland Revenue, including voluntary disclosure where relevant.

Deloitte comment

The key message is that Inland Revenue is increasing compliance activity across the horticultural sector, with a focus on labour supply arrangements, alongside increased scrutiny of GST registrations and wider sector compliance.

The Alert is relevant to all horticulture sector participants, not only those with known compliance concerns. Growers, contractors and subcontractors should review their arrangements, confirm tax responsibilities are clear, and ensure their positions can be supported if Inland Revenue reviews them. New entities should also expect closer scrutiny of GST registration applications.

Deloitte's tax specialists can assist with contractor withholding, GST registration issues, compliance processes and voluntary disclosures. Please contact your usual Deloitte adviser to discuss how the Alert may affect your business.

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Has your business been making the most of the Government incentives for R&D?

By Brendan Ng & Jason Yang

A milestone $10 billion of R&D supported through Government incentives shows that businesses are taking advantage of the government support through the Research and Development Tax Incentive **(RDTI)** scheme, using it to innovate and expand their R&D capability.

With the scheme only continuing to grow, it could be worth considering whether your organisation is leaving money on the table which could expand the scope of your R&D or be reinvested into further R&D workstreams (more on this further below). We are still regularly coming across businesses who are doing good R&D but haven't realised that they could be eligible for the RDTI.

$10 billion of R&D supported

In a recent release, the Government has reported that the RDTI has provided businesses undertaking more than $10 billion of R&D with support, with Science, Technology and Innovation Minister Penny Simmonds noting that

"This milestone reflects the speed with which Kiwi businesses are using the scheme. It took around three years for the scheme to support its first $1 billion of R&D activity, and fewer than four more years to reach $10 billion. That growth shows the increasingly important role RDTI is playing in supporting business investment in R&D."

Importantly, it is noted that new businesses are signing up for the scheme, with Minister Simmonds stating:

"The latest application round shows that momentum continuing. Following the 30 June application deadline, initial results show record rates of application. More new businesses have enrolled for the scheme this year than for any year since 2021. Crucially, the majority of those new enrolees have been small businesses."

This news follows on from an independent report on the RDTI, showing that five years on from its implementation there have been overwhelmingly positive reactions to the scheme. That evaluation showed that, for every dollar of RDTI support provided by the Government, businesses have invested an estimated $1.40 more in R&D than they otherwise would have, showing that the RDTI is enabling businesses to simply do more.

Can my business access the scheme?

So with a growing number of businesses accessing the scheme and enjoying the benefits, what is the RDTI and can your business claim it?

The RDTI is a 15% tax credit that eligible businesses can access in relation to their eligible R&D expenditure, essentially getting back 15c for every dollar that is spent on R&D. To be eligible to claim, businesses must be undertaking R&D in New Zealand that:

- Seeks to resolve scientific or technological uncertainty;
- Aims to create new knowledge, or new or improved processes, services or goods; and
- Follows a systematic approach.

In practice, this covers a broad range of activities, ranging from the more traditional 'white lab coat' R&D to the fast growing area of software development. The industries which are making claims cover the broad spectrum of New Zealand businesses, with innovation occurring in all corners of New Zealand.

While the range of R&D activity that can be captured is broad, there are nuances in the form of certain exclusions, so please reach out if you think you are undertaking something that may be eligible and Deloitte can help guide you through.

How do I claim?

If your business may be undertaking R&D activity, you will first need to get it written up and pre-approved by IRD/MBIE by way of General Approval application. Once this approval is received, the eligible costs can be claimed with Inland Revenue. Eligible costs include employee time, contractors, overheads, direct R&D costs, depreciation on assets used in R&D and other ancillary costs that are associated with the R&D activity.

Depending on the circumstances, the 15% credit on those eligible costs is either applied to your business' tax liability or refunded in cash, allowing businesses to undertake further innovation and grow their business. The Government has also recently announced a new scheme that will assist with cashflow, introducing in-year payments of the 15% credit. The details of this will be released in due course, but a similar scheme has previously been used in the past.

If you have any questions on the RDTI and whether your business would qualify for the 15% tax credit, please get in touch with your usual Deloitte advisor.

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Mortgage cashbacks
What does Inland Revenue say?

By Kirsty Hallett & Simone Walker

Who doesn't like receiving a cash incentive from their bank? Whether used to cover legal fees, moving costs or simply as an extra cash receipt, these payments, commonly referred to as cashback payments, are increasingly common in home-lending arrangements with banks.

Many taxpayers may assume that these payments are either immediately taxable or completely irrelevant for tax purposes. However, Inland Revenue's latest draft guidance confirms that the tax implications may not be as simple as many borrowers expect.

Inland Revenue has released, as an exposure draft, a 'Questions We've Been Asked', clarifying the income tax treatment of cash incentive payments. The draft guidance explains when a cash incentive payment will be taxable and confirms the timing of when the amount should be recognised as income. Importantly, the draft guidance is only applicable for taxpayers that are 'cash basis persons'.

In most cases, a borrower who receives a cash incentive when taking out a mortgage to buy their own home is unlikely to have to pay tax on the cash incentive payment received. However, where the borrowing relates wholly or partly to earn income (such as a rental property, business use, or home office) the cash incentive can affect the borrower's final tax position when the loan is repaid, refinanced, or otherwise ends.

What does Inland Revenue say?

The draft guidance confirms that a bank cash incentive payment does not have the characteristics of ordinary income. Specifically, Inland Revenue's view is that the cash incentive payment:

- Is not interest;
- Is not part of a regular income-earning process;
- Is not received from an income-producing activity; and
- More generally does not have the characteristics expected of ordinary income.

Therefore, a cash incentive payment is not assessable income when it is received.

However, because the cash incentive payment is received when a taxpayer enters into a loan, the payment is a financial arrangement. Accordingly, the cash incentive payment must be included in a base price adjustment (BPA) calculation when the loan matures, is refinanced, or is otherwise repaid.

A reminder: the financial arrangement rules matter for individuals too

While homeowners may not consider the financial arrangement regime, most New Zealand dollar mortgage arrangements will be financial arrangements and therefore these rules will technically apply to the borrower.

The financial arrangement rules typically require taxpayers to spread their income and expenditure over the term of the arrangement. Luckily, most individual borrowers have smaller and less complex financial arrangements and will be 'cash basis persons' which allows for some concessional treatment.

The cash basis person eligibility must be tested each year by meeting one of the following criteria:

1. The total of the absolute values of a person's income and expenditure under all their financial arrangements in the relevant income year is $200,000 or less.
2. The total of the absolute values of all the person's financial arrangements is $2 million or less on every day in the income year.

Cash basis persons recognise income when money is received and expenditure, such as loan interest, when it is paid. When the loan is repaid, a cash basis person must undertake a final wash-up calculation (a base price adjustment or BPA) to ensure all income and gains (including capital receipts) arising under the arrangement have been recognised as income, after allowing for any expenditure or losses that have arisen under the arrangement. It ensures that the overall economic outcome of the arrangement is correctly reflected for tax purposes.

In the BPA the cash incentive payment is treated as 'consideration' and in essence will offset or reduce the interest deduction available in the final year of the loan. If the cash incentive payment exceeds the interest deduction available in the final year of the loan then the BPA will be positive and the respective amount will need to be included as taxable income in the taxpayer's return.

This means that while there is no tax consequence when the cash incentive payment is received, the amount is not ignored forever.

Private home loans: largely a non-event

Cash incentive payments received on purely private home loans are unlikely to have any tax consequences.

Where a loan is solely private, interest is not deductible. Although a BPA is still technically required when the loan ends, the private limitation will generally prevent any interest deduction. If total interest paid exceeds the cash incentive, there should usually be no income or expenditure to recognise for tax purposes.

Practically, this means the rules can largely be ignored for loans that are purely personal in nature. For many homeowners, this means they can continue to regard the cash incentive payment as a welcome bonus, without needing to worry about income tax consequences.

Loan used solely for an income-earning purpose

The position is different where the loan funds are used to derive income, for example to acquire a rental property.

Here the cash incentive payment is recognised as consideration under the financial arrangement; however the timing of the recognition is deferred until the final year of the loan in the BPA. In a simple case, this will reduce the interest deduction available in the final year. If the cash incentive payment exceeds the deductible interest available in the final year, the excess may need to be returned as taxable income.

During the 2022–2025 income years, residential interest limitation rules denied some borrowers deductions for interest on residential investment property loans. Where a person was denied a deduction for interest under these rules, adjustments will likely be needed to a positive BPA result to adjust the outcome for the amount of the interest deduction that was denied.

Loan used for more than one purpose: The more complex area

Where a borrower uses a loan for both an income-earning and a private purpose the tax treatment will be more nuanced, especially where a property's use moves between private and income-producing during the term of the loan.

Examples of such situations include:

- A homeowner uses part of their home as a home office;
- A former rental property becomes the owner's personal home;
- A homeowner's personal home is later rented out; and
- Mixed-use properties.

The BPA will become more complex, but the underlying principles will remain the same. In the final year of the loan, the cash incentive payment should be included as income in the BPA. However, a positive BPA will need to be adjusted by reference to the extent to which deductions have been allowed or denied during the term of the loan to determine whether the outcome of the BPA needs to be recognised as income.

The practical result will depend on the extent to which the loan has been used to derive income, and the extent to which interest deductions have been allowed or denied over the term of the loan.

Deloitte Comment

The draft guidance is a reminder that the financial arrangement rules are complex and far-reaching.

Any borrowers receiving cash incentive payments should keep track of the amount received as part of the loan records so that it can be factored in, if and when a BPA calculation is required. Taxpayers who have a tax agent should also make sure their advisor is aware they received a cash incentive payment on entering the loan.

While it may be tempting to simply ignore the tax consequences when a loan is obtained for a purely private use, even a small change in circumstances, such as using a dedicated part of the property as a home office, can result in a BPA adjustment being required in the final year of the loan.

Submissions on the draft guidance close on 3 September 2026. If you have any questions about cash incentive payments or financial arrangements please contact your usual Deloitte advisor.

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Snapshot of recent developments

Tax legislation and Policy Announcements

Information release: Tax Administration Order 2025

On 16 July 2026, Inland Revenue published an information release of documents relating to the Tax Administration (Extension of Application Deadline for Research and Development Tax Credits) Order 2025.

Inland Revenue Technical updates

Draft Interpretation Statement: When a disposal of land will be part of a profit-making undertaking or scheme subject to income tax under s CB 3

On 2 July 2026, Inland Revenue published draft interpretation statement PUB00519: *When a disposal of land will be part of a profit-making undertaking or scheme subject to income tax under s CB 3* for consultation. The statement considers whether disposals of land can be subject to income tax under section CB 3 (profit-making undertaking or scheme) or whether the land sale rules in the Income Tax Act 2007 are a code that comprehensively covers when land disposals are taxed.

The statement states the Commissioner's position that the specific land sale provisions are not intended to be a code, and that section CB 3 can apply to tax land disposals. However, it reverses the Commissioner's previous view that s CB 3 cannot apply to undertakings or schemes involving the development and subdivision of land. The statement concludes that there are limited circumstances in which s CB 3 may apply as an alternative to ss CB 12 or CB 13. The closing date for submissions on the draft statement was 13 August 2026.

Inland Revenue: Tax Information Bulletin - July 2026 (Vol. 38, No 6)

On 1 July 2026, Inland Revenue issued its July 2026 Tax Information Bulletin. The Tax Information Bulletin covers the following recent tax developments:

Act commentary

- Taxation (Budget Measures) Act 2026 – Act commentary

Determinations

- DET 09/02 (CPI 2026): 2026 CPI Adjustment for Determination DET 09/02: Standard-cost household service for childcare providers
- DET 19/01 (CPI 2026) 2026 CPI adjustment to DET 19/01: Household boarding service providers
- DET 19/02 (CPI 2026) 2026 CPI adjustment to DET 19/02: Short-stay accommodation

Operational statements

- OS 19 03 (CPI 2026) 2026 CPI adjustment to Operational Statement OS 19/03: Square metre rate for the dual use of premises
- OS 19/04 (KM 2026) The Income Tax (Kilometre Rates for the Business Use of Vehicles for the 2025-26 income year) Instrument 2026

Interpretation statement

- IS 26/12 Working for Families tax credits and family scheme income

Case summaries

- CSUM 26/06 High Court allows leave to appeal and orders backdating of charities reregistration
- CSUM 26/07 High Court dismisses application for interim stay and grants application to strike-out paragraphs of the statement of defence on basis of s 109 of the Tax Administration Act 1994

Draft Interpretation Statement: GST financial services – Services supplied in relation to retirement schemes

On 17 July 2026, Inland Revenue reissued draft interpretation statement PUB00522: *GST financial services – Services supplied in relation to retirement schemes* for consultation. The statement considers the GST treatment of services that the manager of a retirement scheme supplies to the scheme, and that third-party outside providers supply to the manager of a retirement scheme. In both cases the key issue is whether the supplies are exempt supplies of financial services. The revised draft follows consultation on the original item, which was released for public consultation in December 2025. Submissions on the draft closed 14 August 2026.

Question We've Been Asked: Income tax – Bare Trusts and mortgages

On 27 July 2026, Inland Revenue published question we've been asked QB 26/04: *Income tax – Bare Trusts and mortgages.* The QWBA considers whether a bare trust can exist where trust property is subject to a mortgage. Inland Revenue concludes that a person can still be a bare trustee under section YB 21 where there is a mortgage over the property, provided the trustee acts solely on the beneficiary's directions and has no independent powers, discretion or active management responsibilities. In those circumstances, the beneficiary is treated as having obtained the mortgage and held the property for tax purposes. However, where a trustee exercises independent judgement or discretion in obtaining a mortgage or managing the property, they will not be a bare trustee and section YB 21 will not apply. The Question We've Been Asked replaces interpretation statement IS 23/02 to the extent that it is inconsistent with this position.

Tax Cases and Technical Decision Summaries

Case Summary: High Court upholds section 109 bar and declines stay of debt recovery proceedings

On 30 June 2026, Inland Revenue issued case summary CSUM 26/07: *High Court dismisses application for interim stay and grants application to strike-out paragraphs of the statement of defence on basis of s 109 of the Tax Administration Act 1994.* The case concerned a taxpayer who sought to stay debt recovery proceedings pending judicial review of the Commissioner's refusal to amend assessments under s 113 of the Tax Administration Act 1994. The High Court declined the stay, finding no exceptional circumstances justified delaying recovery action and that there was little prospect the assessments would ultimately be amended. The Court also struck out parts of the taxpayer's statement of defence, holding that section 109 prevented the taxpayer from re-litigating the correctness of assessments that had already been determined by the Taxation Review Authority.

Case Summary: High court dismisses judicial review

On 1 July 2026, Inland Revenue issued case summary CSUM 26/08: *High court dismisses judicial review*. The case concerned a taxpayer who sought judicial review of the Commissioner's refusal to consider a section 113 application to amend income tax assessments that had already been upheld through the statutory disputes and challenge process. The High Court dismissed the application, finding that the correctness of the assessments had already been finally determined by the TRA and that issue estoppel prevented the taxpayer from re-litigating those issues through judicial review. The Court also held that the Commissioner was entitled to treat the assessments as correct and decline to consider the s 113 application. The decision confirms that taxpayers cannot use judicial review to revisit the correctness of assessments that have already been conclusively determined by a court.

Technical Decision Summary: Employee allowances – tax exemption and PAYE treatment

On 17 July 2026, Inland Revenue published technical decision summary TDS 26/07: *Employee allowances – tax exemption and PAYE treatment.* The Technical Decision Summary considers a private ruling on the income tax and PAYE treatment of various employee allowances including meal, tool, transport, laundry and telephone allowances. The Tax Counsel Office concluded that these allowances are exempt income only to the extent they meet the specific statutory exemption requirements, such as reimbursing work-related costs or expenses. Meal, tool and transport allowances may be partly or fully taxable depending on the circumstances, while laundry allowances for distinctive work clothing are exempt. To the extent an allowance is not exempt income, it will be treated as employment income subject to PAYE withholding.

Technical Decision Summary: Disposal of property and shortfall penalties

On 23 July 2026, Inland Revenue published Technical Decision Summary TDS 26/08: *Disposal of property and shortfall penalties*. The Technical Decision Summary considers an adjudication concerning the sale of a subdivided section by a property development company and whether the proceeds were taxable under section CB 6 of the Income Tax Act 2007. The Tax Counsel Office concluded that the taxpayer had a purpose or intention of disposal at the time the property was acquired and was therefore liable for income tax on the sale. While a shortfall penalty for gross carelessness was not applied, Inland Revenue determined that the taxpayer had taken an unacceptable tax position and was liable for the corresponding shortfall penalty.

Technical Decision Summary: Excepted financial arrangement

On 24 July 2026, Inland Revenue published Technical Decision Summary TDS 26/09: *Excepted financial arrangement*. The Technical Decision Summary considers a private ruling concerning whether a 10-year supply agreement qualified as a "short-term agreement for sale and purchase" and therefore an excepted financial arrangement. The arrangement involved the ongoing supply of products, with monthly invoicing and payment due by the 20th of the following month. The Tax Counsel Office concluded that the agreement was an excepted financial arrangement under section EW 5(22) and, accordingly, was not a financial arrangement for income tax purposes.

Product Rulings

Product Ruling: Reach Media New Zealand Limited

On 15 May 2026, Inland Revenue published a number of product rulings relating to distributors, drivers and supervisors engaged by Reach Media New Zealand Limited to deliver unaddressed mail. The rulings confirm that payments made under the relevant contracts are not treated as salary or wages, schedular payments, or employment income for PAYE purposes. The rulings also confirm that the services provided under the contracts constitute taxable activities for GST purposes and are not excluded as employment-related services.

Product Ruling: Ministry of Education

On 19 May 2026, Inland Revenue published product ruling BR Prd 26/07: Ministry of Education. The product ruling confirms that the payment of scholarships by the Pacific Education Foundation to eligible tertiary students under the Tulī Takes Flight Scholarships and Pacific Education Foundation Scholarships programmes will be exempt income for the students under s CW 36 of the ITA07.

Inland Revenue Media Releases and Other Updates

Inland Revenue: Registering new business tax accounts in myIR

On 6 July 2026, Inland Revenue published an update on the way business tax accounts are registered in myIR. International exchange accounts and withholding tax accounts have already been separated into logical groups in the Intermediary Centre. Additional accounts will be separated in two groups on 15 July 2026 and 12 September 2026.

Inland Revenue: Protecting your myIR account and client information

On 29 June 2026, Inland Revenue announced that it is adding extra protection to help protect tax agents from identity fraud and reduce the risk of refunds being paid to incorrect bank accounts. Inland Revenue may place a short hold on refunds when new bank accounts are added, to give tax agents time to contact Inland Revenue if the agent or an authorised representative did not make the bank account change.

Inland Revenue: Overdue tax and late tax return payments – automated messages

On 1 July 2026, Inland Revenue announced that it will be contacting groups of taxpayers who have overdue tax of at least $100, or overdue tax returns. Taxpayers may receive a pre-recorded call or voicemail message from this Inland Revenue number: 0800 951 758.

Inland Revenue: TCO update on current public guidance work programme

On 9 July 2026, Inland Revenue updated the Tax Counsel Office's current Public Guidance work programme for 2025/26.

Inland Revenue: 2025-2026 kilometre rate guidance

On 8 July 2026, Inland Revenue announced that it is considering providing more guidance on kilometre rate reimbursements made by employers in the current (2026-27) income year, due to changes in fuel prices. In the meantime, Inland Revenue has asked that tax agents continue to use either the 2025-2026 kilometre rates or a method that provides a reasonable estimate of employees' costs.

Inland Revenue: Support for severe weather conditions

On 15 July 2026, Inland Revenue issued an invitation to taxpayers affected by the severe weather conditions in the Kaikoura, Waitaki, South Wairarapa and Wairoa districts, and the Marlborough region to contact Inland Revenue for support if needed. Taxpayers should include the word "weather" in the myIR correspondence.

Inland Revenue: overdue debt and returns

On 15 July 2026, Inland Revenue announced that it will be contacting taxpayers with overdue debt who have been through a full billing cycle and have not yet responded to Inland Revenue's messages. Inland Revenue advised that if taxpayers do not respond to their future contact attempts, its Community Compliance team may visit the taxpayer, or Inland Revenue may make a deduction from the taxpayer's bank account directly.

Inland Revenue: update: registering new business tax accounts in myIR now live

On 27 July 2026, Inland Revenue announced that changes to the account registration process for FBT, PIE, GMD and OGD tax types are now available in myIR. O

ECD updates

2026 Economic Impact Assessment of the Global Minimum Tax (GMT)

On 15 July 2026, the OECD published its report the *2026 Economic Impact Assessment of the Global Minimum Tax (GMT)*, which provides new estimates of the expected effects of the GMT and presents preliminary evidence from its first year of implementation. Relative to a hypothetical scenario where the GMT was not implemented anywhere, the analysis found that average jurisdiction-level effective tax rates are estimated to increase by 2.8-3.7 percentage points on average under the current GMT framework, with effective tax rates in investment hubs estimated to rise by 5.5-6.9 percentage points.

MNE Responses to the Global Minimum Tax

On 15 July 2026, the OECD published its working paper *MNE Responses to the Global Minimum Tax*. The paper provides an early empirical, ex post assessment of how MNEs have responded to the introduction of the Global Minimum Tax (GMT).

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

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