

BUSINESS TAX UPDATE

Inland Revenue's tax news for businesses

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Changes to GST rules

The Taxation (GST and Remedial Matters) Act 2010 enacted in December 2010 introduces changes to the GST rules relating to land transactions. The Act also clarifies the zero-rating of supplies of emissions units.



GST-registered vendors will be required to charge GST at the rate of 0% on any supply to a GST-registered person that wholly or partly consists of land, if at the time of settlement:

- the recipient intends to use the goods for making taxable supplies, and
- the supply is not a supply of land intended to be used as the principal place of residence of the recipient or a person associated with the recipient.

Other features of the new rules include:

- a definition of "land" which largely follows the definition used for income tax purposes but which excludes most commercial leases
- an obligation for the purchaser to advise of their registration status and intentions in respect of the land
- special rules to deal with situations when a supply is either incorrectly zero-rated or incorrectly standard-rated.

The new rules will apply to supplies made on or after 1 April 2011.

For transactions entered into before 1 April 2011 but for which the time of supply is after that date, the supplier has the option of treating the transaction as being governed by either the current GST rules or the new rules.

Full details are given in the *Tax Information Bulletin* Vol 23, No 1 (February 2011) at www.ird.govt.nz "Newsletters and bulletins".

Emissions trading scheme amendments

The Act also amended the rules to make it clear that only certain supplies made in exchange for a supply of emissions units, when one of the parties is the Crown, are to be zero-rated. Zero-rating of contra supplies does not extend to supplies made by one business to another. This amendment applies from 1 July 2010.

Non-resident seasonal workers' rate reduced

For recognised seasonal employers (RSEs), approved by the Department of Labour, the PAYE rate for non-resident seasonal workers has been reduced from 15% to 10.5% effective from 1 April 2011. As this rate is now the same as the lowest personal tax rate, from the 2011–12 tax year there'll no longer be any benefit in workers filing a tax return.

As an RSE, you'll need to make sure that:

- any new or returning RSE workers choose the NSW tax code when they complete their *Tax code declaration* (IR 330)
- you use the NSW code on your employer monthly schedules
- you deduct tax from their wages at the flat rate of 12.54 cents in the dollar from 1 April 2011 (10.5 cents PAYE and 2.04 cents ACC earners' levy).



Inland Revenue
Te Tari Taake

Welcome to Business Tax Update

In this issue: Changes to the GST rules, non-resident seasonal workers' rate reduced, qualifying company changes and the new look-through company, tax help for businesses affected by the earthquake, GST on foreign currency invoices, new tax depreciation rules, Māori authority update, completing your employer monthly schedule, minimum family tax credit increase, ceasing to operate a business, new rates for child support, and checking your accounting system has the new 15% GST rate.

If you have any suggestions for topics you'd like covered in this newsletter, email BusinessTax.Update@ird.govt.nz



REMINDERS

31 March: Last day (if you have a tax agent) to file your 2010 income tax returns.

7 April: If you have a tax agent with a valid extension of time your end-of-year tax, student loan and Working for Families Tax Credits payments for the 2010 year are due. It's fast, easy and safe to pay online, just click on the "Make a payment" button at www.ird.govt.nz

Redundancy tax credit: Redundancy payments made on or after 1 April 2011 will no longer be entitled to this tax credit.

Qualifying company changes and the new look-through company

On 1 April 2011 changes to rules for qualifying companies (QCs) and loss-attributing qualifying companies (LAQCs) will come into force, effectively ending the LAQC tax entity for income years starting on or after 1 April 2011. This will be the 2011–12 income year for companies with a standard or late balance date, or the 2012–13 income year for companies with an early balance date.

A new look-through income tax treatment for electing close companies has also been introduced called the look-through company (LTC).

More detailed information about these changes and the new LTC rules can be found in our *Tax Information Bulletin* Vol 23, No 1 (February 2011).

QC and LAQC changes

Changes to the rules for QCs and LAQCs will take effect for income years starting on or after 1 April 2011. These changes will mean:

- companies won't be able to elect to become a QC or LAQC for any income years starting on or after 1 April 2011
- companies that are QCs or LAQCs for the income year immediately prior to the income years starting on or after 1 April 2011 will be able to remain as a QC, but without the ability to attribute losses to shareholders.

Existing QCs or LAQCs will be able to continue as a QC without the ability to attribute losses, or choose to revoke their QC status, or change into another tax entity, such as a look-through company (LTC), partnership or sole tradership, without a tax cost.

Our *Qualifying companies – changes (IR 870)* factsheet summarises the rule changes and the options for existing QCs and LAQCs. The factsheet is available at www.ird.govt.nz (keyword: ir870).

Look-through company (LTC) rules

The new LTC rules are available for income years starting on or after 1 April 2011.

An LTC is, generally, transparent for income tax purposes. This means the LTC's income, expenses, tax credits, gains and losses are passed on to the LTC's owners, in proportion to their shares in the company. Profit from the LTC will then be taxed at the owner's marginal tax rates, while any losses from the LTC can be offset against their other income, subject to a loss limitation rule.

Our new *Look-through companies (IR 879)* guide will be available at www.ird.govt.nz from April 2011.

Tax help for businesses affected by the earthquake

Inland Revenue will take a sympathetic approach with businesses that are unable to meet their tax obligations as a result of the recent Christchurch earthquake.

If you think you'll have difficulty meeting your tax payments, please call our disaster response line on 0800 473 566. Go to www.ird.govt.nz/earthquake for the latest tax information.

Earthquake employment support package

Government has implemented an earthquake employment support package to provide support to employers and employees. The package has two components:

- **Earthquake support subsidy** – a subsidy for employers who believe they are going to remain in business and want to keep their staff. They'll get \$500 gross per week or \$300 gross per week to cover part-time staff for up to six weeks.
- **Earthquake job loss cover** – a \$400 a week in-the-hand payment for a period of six weeks paid to full-time employees (\$240 in the hand for part-time employees). This applies to those who are unable to contact their employer or the business has closed permanently.

You can find out more about the package and other emergency assistance at www.msd.govt.nz or www.workandincome.govt.nz. We'll talk about the tax treatment of the subsidy in the next issue.

GST on foreign currency invoices

Sometimes payment for goods and services is made in a foreign currency. Section 77 of the Goods and Services Tax Act 1985 (GST Act) states that for the purposes of this Act all amounts of money must be expressed in New Zealand currency at the time of supply. The time of supply is generally the earlier of the time an invoice is issued by the supplier or the time payment is received by the supplier.

The GST Act requires that in most cases a valid tax invoice must include either:

- the total amount of GST charged, the consideration excluding GST, and the consideration including GST (unless the consideration for the supply is less than \$1,000), or
- the consideration and a statement that it includes GST.

Therefore, the consideration and GST amounts in the tax invoice will need to be expressed in New Zealand dollars.

If an invoice is issued before payment for the goods and services is made, the exchange rate at the date the invoice is issued must be used for converting the foreign currency into New Zealand dollars for GST purposes. If payment is made before an invoice is issued, then the New Zealand dollar amount will be calculated using the exchange rate applying at the date of payment. The Commissioner will accept exchange rates offered by an approved bank or an approved bureau de change. The applicable exchange rate is the "buy rate".

New tax depreciation rules

Budget 2010 removed depreciation deductions for most buildings (those with useful lives of 50 years or more) from the start of the 2011–12 income year.

You can still claim:

- depreciation on the fit-out of commercial and industrial buildings
- 20% depreciation loading on assets in certain circumstances (see below).

Commercial fit-outs depreciable

The law has been clarified so that commercial and industrial fit-outs remain depreciable property.

Items of fit-out that are shared between commercial and residential purposes, eg, lifts, electrical cabling, fire protection, sewerage and water reticulation, in a mixed-purpose building, will be depreciable if the dominant purpose of the building is commercial. Fit-outs used only for commercial purposes will be depreciable property.

A definition of “dwelling” has been added that excludes a number of types of buildings that provide residential-type accommodation. This ensures that fit-outs associated with these buildings will continue to be depreciable property. The types of buildings that will be specifically excluded from the meaning of dwelling are:

- hospitals
- hotels, motels, inns, hostels and boarding houses
- certain serviced apartments
- camping grounds
- convalescent homes, nursing homes and hospices

- rest homes and retirement villages—from hospital care through to residential care facilities.

A new rule will allow commercial building owners, who don't itemise building fit-out separately from the building at the time of acquisition, to amortise up to 15% of the building's adjusted tax book value at 2% straight-line per year until the building is disposed of.

Residential fit-outs not depreciable

Residential fit-outs are generally non-depreciable.

Depreciation loading

Depreciation loading was removed on a prospective basis as part of Budget 2010. Loading continues to apply for assets purchased or constructed before 20 May 2010 or when there was a commitment to purchase or construct an asset on or before 20 May 2010.

Under the new rules an asset will be eligible for depreciation loading if:

- it was acquired on or before 20 May 2010, or
- there was a decision to purchase or construct it and its owner either:
 - entered into a binding contract for its purchase or construction on or before 20 May 2010, or
 - incurred expenditure in relation to it on or before 20 May 2010.

Evidence of a decision to purchase or construct an asset can be provided through documents that conclusively show such a decision was made.

Alternatively, a statutory declaration sent to the Commissioner of Inland Revenue stating a decision was made is acceptable.

Māori authority update

We've been asked what Māori authorities are. As there have been some tax changes here's an introduction and explanation of the changes.

What is a Māori authority?

Māori authorities were created to act as trustees to administer communally owned Māori property on behalf of individual members.

A Māori authority must manage or administer assets held in common ownership. These entities may be trustees of trusts or companies. Organisations need to weigh up the advantages and disadvantages before deciding whether to elect into the Māori authority system.

For more information on eligibility for Māori authorities go to www.ird.govt.nz (keywords: overview Māori).

Tax rates reduced for Māori authorities

If you're a Māori authority the tax rate will reduce to 17.5% on 1 April 2011.

Māori authorities are taxed as a proxy for their members. The tax rate was 19.5% as this was the marginal tax rate of most people who received distributions from Māori authorities. With the change in personal tax rates effective from 1 October 2010,

the Māori authority tax rate has been re-aligned. The Government chose the 17.5% rate as this is the marginal tax rate that applies to most recipients.

The ratio has been amended at which a Māori authority can attach Māori authority tax credits to distributions. A “grandparenting” period of two years will allow Māori authorities with tax credits in their account at 31 March 2011 for tax paid at 19.5% to continue to attach credits at the 19.5/80.5 ratio until 31 March 2013 or when those credits have been fully allocated. This is similar to companies attaching imputation credits to dividends at the old company tax rate. The new maximum ratio of 17.5/82.5 will need to be applied by all Māori authorities for distributions made on or after 1 April 2013.

The provisional tax rules have been adjusted to reflect the change in the Māori authority tax rate and recognise that the amount of tax payable will be less in the year of the decrease.

The reduction in the income tax rate to 17.5% will align with the RWT rate on interest currently available to Māori authorities.

You can find out more about these changes at www.ird.govt.nz/changes

Completing your employer monthly schedule

We've identified some common errors when employers complete their employer monthly schedule (EMS) on manual/paper-based forms. We want to process your EMS as quickly and efficiently as possible so here's a checklist to help you.

Please send your IR 348 to us before the due date, it's best not to leave it until the last day!

IRD number checklist

- ☑ IRD numbers will have 8 or 9 numbers. If 9 they will start with 10X-XXX-XXX.
- ☑ Other numbers are not valid, eg, 999 or 111.
- ☑ To process KiwiSaver deductions we need an IRD number.
- ☑ If you can't provide an IRD number you must use the no-notification (ND) tax rate of 47.04%.

KiwiSaver checklist

- ☑ Check you're familiar with automatic enrolment criteria, how to calculate KiwiSaver and when compulsory employer deductions are required.
- ☑ Make sure employees are 18 or over before you automatically enrol them in KiwiSaver. Employees must also be a New Zealand resident and less than 65 years old.
- ☑ KiwiSaver employer contributions must be 2%—this is regularly not calculated correctly on holiday pay and final pay.
- ☑ You'll need to complete a *KiwiSaver employee details (KS 1)* form. The full address of your employee is compulsory. You can send your KS 1 to us before your EMS.
- ☑ When completing the *New employee opt-out request (KS 10)* form you must include your IRD number, name and address. Also include your employee's start date.
- ☑ Make sure the total KiwiSaver is the sum of the KiwiSaver deductions you've made for your EMS period.
- ☑ KiwiSaver is calculated on gross salary or wages, which generally means total salary, wages or allowances, including bonuses, commission, extra salary, gratuity, overtime and other remuneration before tax. KiwiSaver isn't deducted from:
 - redundancy payments
 - the value of providing board or lodging, or use of a house or part of a house, or the payment of an allowance instead of the provision of this benefit
 - the value of overseas accommodation and cost of living allowances.

Completing the correct fields

- ☑ Make sure you complete student loan and child support deductions in the correct column (if applicable).
- ☑ If you only have one employee you still need to complete all applicable fields for that employee, including the totals.
- ☑ Only include employee(s) details once, ie don't repeat them on another page.
- ☑ WT tax code—make sure the same amount is included in both the "Gross earnings and/or schedular payments" column and "Earnings and/or schedular payments not liable for ACC earners' levy" column.
- ☑ M tax code—make sure you complete only the "Gross earnings and/or schedular payments". You only use the "Earnings and/or schedular payments not liable for ACC earners' levy" column if there's redundancy or the earnings are over the maximum for ACC purposes.
- ☑ Write clearly and inside the boxes, and use a blue or black pen to complete the EMS. Don't use red or green pens or vivid markers.
- ☑ If the amount is 0.00 please leave it blank. Don't write "NIL" as our image machine can read this as \$1.11.
- ☑ Only complete "start and/or finish" dates when your employee commences or ceases employment.

Amendments to your EMS

Sometimes an error is made on an employee's earnings. For changes for one or two employees call us on 0800 377 772 or send a message by secure online services. Alternatively, complete an *Employer monthly schedule amendments (IR 344)* form and return it to us.

Negative amounts can't be accepted as the adjustment needs to be made in the same month the error occurred.

For more information go to www.ird.govt.nz (keywords: employer returns).

In the next issue we'll talk about common errors when filing your EMS electronically.

Minimum family tax credit increase

An Order in Council on 15 November 2010 increased the after-tax income level guaranteed by the minimum family tax credit. The after-tax income level will rise from \$21,008 to \$22,204 a year from 1 April 2011.



Ceasing to operate a business

If you're considering selling or closing all or part of your business, you'll need to consider business tax obligations such as GST, employer-related taxes, income tax and depreciation recovery.

When you cease a business, or sell or dispose of a business asset you must make an adjustment in your end of year tax return to account for the gain or loss. A gain is included as gross income and a loss (except buildings) as an allowable deduction.

If you stop all taxable activities or if your annual turnover drops below \$60,000, you may need to cancel your GST registration. However, if you've built GST into your sale prices then you can't cease your GST registration even if your turnover drops below \$60,000.

Ceasing trading

Businesses that officially cease trading can complete the *Business cessation (IR 315)* form to finalise their taxable liabilities for GST and employer taxes. In most cases it will be quicker to cease your business over the phone. If you've filed your final GST return, just call us on 0800 377 774. If not, file your final return, wait a few days then email us using your secure online services account or call us on 0800 377 774. We can cease your account once your KiwiSaver account is clear.

Stopping taxable activities

If your company is stopping its taxable activities but not winding up altogether, you'll need to apply to us for non-active status with a *Non-active company declaration (IR 433)*. If your application is accepted, you're no longer required to file tax returns until your company is reactivated.

Unable to operate

You may be unable to operate your business because it's been irreparably damaged, such as in an earthquake. Any insurance payments you receive for irreparable damage caused to depreciable property are treated as if you've sold that property.

If you receive more than the adjusted tax value, you'll need to include as income in your income tax return the lesser of:

- the difference between the insurance payment and the adjusted tax value, or
- the total amount of depreciation you've claimed for that asset.

Changing your business structure

The beginning of a new tax year is often the time when companies or employers consider changes to their structures. When changes are made, please let us know—difficulties can arise for both employers and staff if changes are made without telling us. For example we'll need to know your new IRD number, bank account number if it's changed and your trade name if it's changed.

Find out more about your tax obligations after ceasing a business at www.ird.govt.nz (keywords: business ceasing).

New rates for child support 2011–12

Every year we recalculate the rates used to assess child support payments. If you or your employees pay child support, here are the new rates used in the formula assessment.

Rates for 1 April 2011 to 31 March 2012	
Minimum formula assessment annual rate	\$848
Maximum assessable income	\$121,833
Living allowances	
Single person with no dependents	\$14,281
Partnered with no dependents	\$19,490
Single/partnered with one dependent	\$27,628
Single/partnered with two dependents	\$30,558
Single/partnered with three dependents	\$33,487
Single/partnered with four dependents	\$36,417

The minimum annual assessment of \$848 equates to a monthly amount of \$70.65 and a weekly amount of \$16.30.

Checking your accounting system has the new 15% GST rate

Now you've adjusted to the new GST rate it's a good time to check your accounting software has been upgraded or updated to the new GST rate of 15% and your GST returns are being filed at the new 15% rate. It's also timely to check your figures are being calculated at the correct rate.

If you're filing online, our systems will detect any miscalculations in your GST return and display error messages that are easy to understand. However, if you're filing a physical GST return, please take a few minutes to check the GST figures have been calculated at 15%.