

AGENTS ANSWERS

Inland Revenue's tax agents' update

Issue No 211 • April 2018 • IR787



REMINDERS

Some of our services will be unavailable 12-17 April

Between **3pm** of Thursday 12 April and **8am** Tuesday 17 April, you won't be able to:

- access myIR Secure Online Services, or
- contact us through our contact centres.

And between **12am** Thursday 12 April and **8am** Tuesday 17 April you won't be able to submit an Employer Monthly Schedule (EMS) electronically.

You can still do some things during this period including:

- Pay your bill as you would normally from your bank
- Access information from our website.

Find out more: www.ird.govt.nz/serviceupdate

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

Assistance for farmers affected by recent droughts or ex-cyclone Gita

Medium scale adverse events have been declared.

Drought: Southland region, Queenstown Lakes District, Central Otago District, Clutha District, Taranaki, Manawatu/Whanganui, Wellington and the West Coast of the South Island

Storm: Cyclone Gita in the Taranaki and the Tasman district.

These events may cause financial issues for farmers and we understand it is likely to affect their income in particular for the 2018 income tax year.

Income equalisation

Approval to use Inland Revenue's income equalisation scheme discretions has been granted. This means late deposits will be allowed for the 2017 income tax year up to 30 April 2018, regardless of when the 2017 tax return is filed or what the due date is for filing the tax return.

In addition farmers in financial difficulty or incurring extra expenditure because of the drought or storm will be able to make early withdrawals from the scheme.

To find out if your clients qualify go to www.ird.govt.nz (keyword: income equalisation).

International Ethics Standards Board for Accountants Initiative

A clear pathway has been recently developed by the International Ethics Standards Board for professional accountants to set a side duty of confidentiality to respond to Non-Compliance with Laws and Regulations (NOCLAR).

The main aim is to allow for a more transparent account profession and to enhance the professions reputation as a guardrail for trustworthy organisations and a healthy global financial system.

For more information about this initiative and additional resources visit www.ethicsboard.org

Trusts and New Zealand Financial Institutions to register and report for the Common Reporting Standard

New Zealand is part of a global OECD initiative to combat tax evasion.

New laws relating to the Common Reporting Standard (CRS) affect New Zealand trusts, especially those with offshore controlling persons and beneficiaries who are tax resident in another country.

Find out more about whether your trust is a 'Reporting NZ financial institution' (NZFI) or an account holder:

- **CRS: Is the Trust a Reporting NZ Financial Institution? (IR1052)**
- **Family Trust obligations under the CRS (IR1053)**
- **Automatic Exchange of Information: Your obligations if you hold or control financial accounts**

If the trust needs to submit a CRS disclosure to us for the year ending **31 March 2018** it must be filed with us no later than 30 June 2018 via myIR. Go to the **CRS registration and reporting webpage** for more information.

Check out our **CRS guidance and support materials** or if you are unclear about how this may impact you we welcome your questions at: global.aeoi@ird.govt.nz

Foreign Account Tax Compliance Act (FATCA) obligations

Find out about changes and how to register and report for FATCA using myIR from 17 April 2018.

FATCA disclosures are due to us no later than 30 June 2018, for the year ending 31 March 2018.

Payday filing changes for Employee Share Scheme (ESS) information

If you are choosing to file your employment information every payday there are two methods you can use to report ESS information to us. For reporting purposes, the day the employee receives the ESS benefit is 20 days after the benefit has been provided. You will still need to calculate the value of the benefit on the day it was provided.

Option 1:

- If the 20th day falls between the 1st and 15th of a month you must report the information treating the 15th as the payday
- If the 20th day falls between the 16th and the end of a month you must report the information treating the last day of the month as the payday.

Option 2:

- You can treat the 20th day as the payday and report the value of the ESS benefit to Inland Revenue more regularly.

You don't need to contact us to tell us what option you've picked.

Employee Share Scheme (ESS) payment code

From April 2018 you'll need to provide information on ESS benefits separately to other salary & wage information by using the new payment code "ESS".

Add the ESS information as a separate line item on your payroll return including:

- their name
- their IRD number
- the payment code "ESS"
- the taxable value of the ESS benefit. Also include this as "Earnings not liable for ACC earners' levy"
- the total tax, plus student loan and child support, deducted from the benefit (if any).

For more information

Employer's guide (IR335)

Page 43 includes information on making deductions and reporting information from ESS benefits.

Offshore persons applying for an IRD number

Previously offshore persons (individuals and non-individuals) applying for an IRD number needed to provide evidence of a functional NZ bank account or confirmation that an approved entity had completed Customer due diligence for the person.

The Commissioner now has discretion to issue an IRD number where a person cannot meet these requirements, as long as she is satisfied about the offshore person's identity and background.

Refer to www.ird.govt.nz (search keyword: offshore) for more information about the process to follow and required documentation.

Change to rules for GST credit transfers

The effective date for transferring a GST refund will now depend on when your client's GST return is filed.

For GST returns filed before the due date, the refund can only be transferred on the earlier of the day after the:

- return was filed, or
- end of the GST return period.

For GST returns filed on the due date, the refund can only be transferred on the day after the end of the GST return period.

For GST returns provided after the due date, the refund can only be transferred on the date after the return was filed.

These transfer rules apply to GST refunds arising in periods ending on or after 1 April 2018. The rules for transferring credits between non-associated taxpayers have not changed.

GST ratio option for provisional tax – change to cease date

The GST ratio option cannot be used for calculating provisional tax if residual income tax (RIT) in your most recent income tax return is over \$150,000.

Previously the Income Tax Act 2007 did not directly address when you had to stop using the GST ratio option in these circumstances.

Inland Revenue's view was that a taxpayer could continue using the GST ratio method until the end of the relevant income year.

However, amendments to the Act which took effect from the 2016-2017 income year now require a taxpayer to stop using the GST ratio option from the date a return is filed with RIT over \$150,000.

Despite the law change, Inland Revenue continued to apply our previous position. We have now updated all publications to reflect the law change, and will apply this new position to all returns received on or after 1 April 2018.

www.ird.govt.nz/gst/additional-calcs/calc-prov-tax/prov-ratio/

Earlier credit interest start date for early GST returns

When you file your client's GST return early, for periods ending on or after 1 April 2018, credit interest will now start calculating on refunds from the day after the earlier of the following two dates:

- the 10th working day after the GST return's filed, or
- the original due date for the GST return.

For periods ending 31 March 2018 or earlier, the 10 working day timeframe is 15 working days.

Research and Development Loss Tax Credit Application Changes

The Research and Development Loss Tax Credit is there to help New Zealand's most innovative businesses when they most need it. An Eligible company can claim up to \$1,100,000 of eligible Research and Development tax losses for the 2017-18 tax year.

2017/18 applications will be open from 23 April 2018.

R&D Application form move to myIR

- On 17 April 2018 the form you use to apply for a Research and Development Loss Tax Credit will move to myIR Secure Online Services
- This means businesses will need a myIR account to apply for an Research and Development Loss Tax Credit for 2017/18 tax year.
- The myIR form includes automatic calculations to make applying simpler. Plus moving the form to myIR means all of your tax information is in one easy to access spot.
- The form will be added to the myIR accounts of past applicants. New applicants must **register** to have the form added to their account.

Transferring PAYE deducted from a company's schedular payments to shareholder-employees

If your client operates through a company which receives schedular payments that have tax deducted from them, you may be able to ask us to treat the company's tax deductions as tax deductions of the company's shareholder-employee(s).

To find out more about the criteria and how to request this treatment in your client's tax returns, visit www.ird.govt.nz search keywords: Understanding schedular payments.

Extension to the bright-line test

From 29 March 2018 the bright-line test for residential property has been extended from 2-years to 5-years with the enactment of the Taxation (Annual Rates for 2017-18, Employment and Investment Income, and Remedial Matters) Act 2017. The extended bright-line test only applies to properties for which an agreement to purchase the property was entered into on or after 29 March 2018. If an agreement to purchase a property was entered into before that date, the 2-year bright-line test will still apply.

The 5-year bright-line test applies in the same way as the 2-year bright-line test.

The residential land withholding tax (RLWT) rules have been extended from 2-years to 5-years as a result of extending the bright-line test. An offshore person will be liable for RLWT on residential land sold within five years of purchase, if the purchase date was on or after 29 March 2018.

For more information on the extension of the bright-line test, see our TIB volume 30, number 4.

Close companies and Fringe Benefit Tax

Close companies which make 1 or 2 motor vehicles available for the private use of shareholder-employee(s) are able to either:

- use the FBT rules, where FBT is payable on the private use of the vehicles (the default option); or
- elect to apply the rules for determining motor vehicle expenditure in the company's income tax return.

An election to apply the rules for determining motor vehicle expenditure instead of the FBT rules must be made by the due date for the company's end of year income tax return.

For more information see the *Fringe benefit tax (IR409)* booklet.

Deductibility of legal expenses for buying or selling a rental property

Under section DB 62 of the Income Tax Act 2007, a person can deduct legal expenses if they are \$10,000 or less in an income year, including legal expenses that relate to spending on capital assets such as property. The legal expenses still need to meet the general permission of being incurred in deriving income or as part of a business activity, and can't be claimed if they relate to expenditure of a private or domestic nature, such as the purchase of the family home.

Inland Revenue previously told taxpayers that a person could only claim legal expenses under section DB 62 for buying or selling a rental property if they were in the business of providing residential rental accommodation, as otherwise they would not meet the general permission.

We now consider that a person will be able to claim legal expenses under section DB 62 for buying a rental property, regardless of whether they are in the business of providing residential rental accommodation. The position regarding selling a rental property has not changed.

Anyone who has relied on our previous advice can request an amendment under section 113 of the Tax Administration Act 1994. Section 113 requests will be considered on a case-by-case basis following the principles and processes outlined in *SPS 16/01 – Requests to amend assessments*.

