

AGENTS ANSWERS

Inland Revenue's tax agents' update

Issue No 143 • February 2012 • IR 787

End-of-year filing performance tips

Welcome to the first issue of *Agents Answers* for 2012. We hope you had a pleasant break. With only a few weeks until the end of the tax year we're all anticipating that you'll achieve 100% filing.



Now's definitely the time to review EOT clients who have yet to file their 2011 returns.

The AMBR1004 current year returns outstanding report sent in mid-December gave details of those who hadn't filed up to that point. This report can help identify any follow-up action you might need to take to reach your 100% target.

Be careful about linking clients close to the required filing date.

If a client is required to file a 2011 tax return and you link them close to 31 March 2012 but can't:

- file the return by 31 March 2012, or
- update the return as "not required"

then this client's outstanding return will affect your filing performance.

Please consider each case carefully before linking at this late stage so you can achieve the desired 100% filing performance. If necessary, talk to your agent account manager.

L letter availability for 2012

Each year we turn off the programme that issues L letters. This will happen for the 2012 year on Wednesday 15 February. From this date until early August 2012 you won't be able to request an L letter be sent to your client.

If you have clients who haven't given you their records and you'd like us to send them an L letter before 15 February 2012, you can request one by phoning 0800 456 678.

When an L letter is issued, the client is removed from your performance statistics until the return is filed. The return is still due by 31 March.

You can view a sample L letter at www.ird.govt.nz (keywords: extension of time arrangements).

Where you have a client who is overseas you need to talk with your agent account manager about the options available as our L-letter system can't issue to an overseas address.



Inland Revenue
Te Tari Taake

Welcome to Agents Answers

In this issue: End-of-year filing performance tips, L letter availability for 2012, request for "D" list status for 2011 returns, changes to the 2012 IR 3 agent run, land and zero-rating for GST, revised depreciation rates for chattels, look-through companies and interest deductibility, Nelson floods, certificate of exemption from tax on schedular payments, new ACC rates agreed by Cabinet, an insight into binding rulings, requests for reassessments.

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



REMINDERS

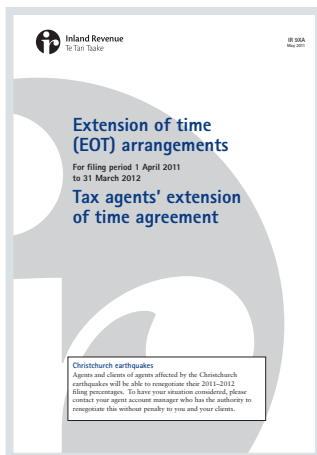
7 February 2012: Terminal tax payments for the 2011 tax year are due for your clients who don't have an EOT.

31 March: Student loan repayments are due for overseas-based borrowers not on a repayment holiday.

Deadline for ratio option elections: Elections for the ratio option need to be to us by 31 March 2012 for clients with a 31 March balance date who want to use this method of calculating their provisional tax during 2012-13.

Note: We can't process an election for using the ratio option for the tax year if we receive it after the year has already started.

Request for “D” list status for 2011 returns



Do you need an extension of time to file your clients' 2011 income tax returns beyond 31 March 2012?

The extension of time pages at www.ird.govt.nz (keywords: extension of time arrangements for 2011 returns) set out the requirements for D status.

Applications must be in writing and give full details of the reasons and the expected date

the return will be filed. Individual applications may be made, but bulk applications can be made for groups of companies or entities through your agent account manager (AAM). We need to receive your applications by **Friday 16 March 2012** to be able to process them by the last working day of March (Friday 30 March 2012).

Note: The above date differs for Christchurch agents because of expected high demand for D status requests. Your applications need to be in by **9 March 2012**.

Local sites can't process Large Enterprise clients, nor can your AAM. In these cases please send your applications to payroll.bureau@ird.govt.nz

Changes to the 2012 IR 3 agent run

Changes to the 2012 return season mean we'll send you information differently.

Until now you've received either paper IR 3A returns or a letter for each client with the document lodgement number (DLN) to file online.

From the 2012 income year you'll no longer receive IR 3A paper returns, instead we'll send you a schedule of DLN numbers for all your clients. The schedule will provide a full list of your clients, including each client's name, IRD number, address, phone number and bank account number. This also includes those you've E-Filed returns for in the past.

If you require a paper return, you can download a copy from www.ird.govt.nz (keyword: IR3A) or call our self-service on 0800 257 777.

Deemed rate

The deemed rate of return for taxing foreign investment fund interests has been set at 8.52% for the 2010-11 income year, down from 9.12% for the previous year.

Land and zero-rating for GST

We've been asked whether having a written statement means a supply that consists wholly or partly of land is to be zero-rated and whether, in the absence of a written statement, the supply should be standard rated.

Section 11(1)mb of the Goods and Services Tax Act 1985 (GST Act) provides that a supply which consists wholly or partly of land will be zero-rated when the supply:

- is made by a registered person to another registered person who acquires the goods with the intention of using them for making taxable supplies, and
- isn't a supply of land intended to be used as a principal place of residence of the recipient of the supply or a person associated with them under section 2A(1)(c) of the GST Act.

The written statement doesn't determine if a supply is zero-rated or not, although the vendor (supplier) is entitled to rely on the written statement provided by the purchaser in determining the correct GST treatment.

If a transaction was treated as zero-rated but this was incorrect, then the recipient (purchaser) is liable for the outstanding tax.

As long as the requirements of section 11(1)mb above are met at the time of settlement the supply can be zero-rated even if no written statement is provided. But we recommend suppliers treat the supply as standard-rated if there's no written statement.

If you're still not clear about the correct GST treatment you can issue a Notice of Proposed Adjustment. Alternatively you can ask the Commissioner to amend the self-assessment under section 113 of the Tax Administration Act 1994 if you think the supply should be zero-rated.

If you find the supply should have been zero-rated but has been incorrectly standard-rated and the GST has been accounted for to Inland Revenue, you can provide a credit note and then deduct the excess output tax. Sections 20(3) and 25 of the GST Act outline what is required to do this.

The *Tax Information Bulletin* Vol 23, No 1 (February 2011) has commentary on zero-rating land transactions.

Revised depreciation rates for chattels (residential rental property)

The depreciation rates for assets in the "Residential rental property chattels" industry category have been revised. The list includes items of depreciable property that are commonly found in residential property.

The new rates are effective from 1 April 2011 and apply to the 2012 and subsequent tax years.

You can see the new list at www.ird.govt.nz (keyword: DEP80).

Look-through companies and interest deductibility

We've been asked whether interest will still be deductible where a loss attributing qualifying company (LAQC) becomes a look-through company (LTC) if:

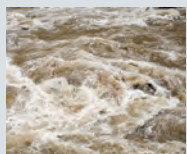
- a person had previously sold their family home to an LAQC as a rental asset, to be rented to a third party on an arm's length basis
- the person owned 100% of the shares in the LAQC
- the sale was at market value
- the LAQC borrowed from a bank to fund the purchase
- the person then used the funds raised from the sale to purchase a new family home
- the LAQC becomes an LTC.

If the only change is that the LAQC has become an LTC, then interest deductions previously allowed will continue to be allowed, subject to the limitations on deductions that apply to an LTC (in sections HB 11 and HB 12 of the Income Tax Act 2007).

The position would be the same where a person sells their family home at market value directly to an LTC and the LTC holds it as a rental asset, renting it to a third party on an arm's length basis.

You can read the full commentary in the *Tax Information Bulletin* Vol 23, No 10 (December 2011) at www.ird.govt.nz "Newsletters and bulletins" or search for QB 11/03.

Clients affected by the Nelson floods



If you have clients affected by the recent flooding in the Nelson/Tasman area who need tax relief information they can find it at www.ird.govt.nz "Tax relief – Nelson floods".

There is information here about:

- provisional tax estimates/re-estimates
- late filing and late payment penalties
- outstanding tax
- certificate of exemption
- special tax codes
- income equalisation scheme
- Working for Families Tax Credits
- child support
- contacting us for more help.

Farming clients who have money deposited in the income equalisation scheme may be able to make an early withdrawal, or deposit funds in the scheme later than the usually allowed date. The webpage provides more detail on this.

If you have clients who contract in the horticultural industry we've provided information on certificates of exemption as they may now be entitled to apply for one of these.

Certificate of exemption from tax on schedular payments

If you need to apply for a certificate of exemption (COE) on behalf of a client please be sure you're only doing so where the criteria have been met. Individuals, trusts, partnerships and companies are eligible to apply for a COE if they:

- are in business, and
- receive schedular payments that are subject to a prescribed rate of tax under Schedule 4 of the Income Tax Act 2007, and
- have a good tax compliance history with us.

A good compliance history means:

- returns are filed on time
- payments are made on time
- employers are using the correct tax codes for employees, ie, if an employee doesn't provide a tax code declaration then tax is deducted at the no-notification rate of 30 cents in the dollar.

The COE is a credit card size with a holographic covering, and may be issued for up to five tax years. We decide the length of time it's issued for based on the good tax record of the applicant.

Clients who already have a COE can't use it to exempt an employee's salary or wages from PAYE deductions, but if they're a contractor with this exemption, they can receive contract payments without having withholding tax deducted.

If your client subsequently doesn't file returns or make payments on time we may contact you. The exemption may be withdrawn if arrears aren't paid or outstanding returns remain unfilled.

To request or renew a COE, go to www.ird.govt.nz "Get it done online" (look under "Schedular payments").

New ACC rates agreed by Cabinet

On 12 October 2011, the Minister for ACC announced the ACC levy rates for 2012–13. These rates were considered and agreed by Cabinet to be passed into law during the first quarter of 2012.

The earners' account levy is set at \$1.70 (GST inclusive), down from \$2.04 the previous year.

The minimum liable earnings for self-employed workers increases from \$26,520 to \$27,040.

The maximum liable earnings will increase for:

- self-employed people under the Work and Earners' Account from \$110,018 to \$111,669
- employees, private domestic workers and earners other than self-employed under the Work and Earners' Account from \$111,669 to \$113,768
- employees and private domestic workers for calculating the residual portion of the Work Account from \$110,018 to \$111,669.

An insight into binding rulings

New timeliness standards were applied to binding ruling applications in July 2010. These standards set a target for delivering draft rulings (or contrary views) within three months of receiving the application, provided the application has eight or less legal issues and a pre-lodgement meeting has been held.

We're happy to report we've met the standard for all applications for the year ended 30 June 2011, and have continued to meet it to date. We've also met some taxpayer requests for faster delivery times when there were compelling transactional requirements.

This is important because it gives you certainty sooner about a particular tax issue.

What is a binding ruling?

A binding ruling is Inland Revenue's interpretation of how a tax law applies to a particular arrangement. An arrangement is any agreement, contract, plan or understanding (whether enforceable or not), including any steps and transactions that carry it into effect. The overall process is administered by Inland Revenue's Office of the Chief Tax Counsel.

Binding rulings can provide certainty on the tax position for a wide range of transactions, from complex financing transactions to land subdivisions. Anyone can apply for a binding ruling on a transaction, but there are some restrictions on our ability to provide a binding ruling and there is a fee for preparing a private or product ruling.

If a binding ruling applies to a taxpayer, and they follow it, Inland Revenue is bound by it (provided the

taxpayer has entered into the arrangement exactly as described in the ruling, and they satisfy any stated assumptions or conditions). A taxpayer isn't required to follow the approach in the ruling.

A binding ruling doesn't remove the requirement to file an income tax return and pay any taxes arising from the arrangement.

Why apply for a binding ruling?

Binding rulings help taxpayers comply with the law and meet their obligations. They provide certainty about how we'll interpret the law as it applies to a specific transaction.

They're especially useful where:

- the law is unclear and there's more than one possible interpretation
- new legislation applies to the transaction
- the transaction is novel, sensitive or controversial
- the arrangement raises significant issues or may have a wide impact
- the arrangement is a complex financing transaction.

For more information on binding rulings, see www.ird.govt.nz/technical-tax/binding-rulings/ and our revised *Binding rulings (IR 715)* guide available at www.ird.govt.nz "Forms and guides".

If you want to apply for a ruling, please contact your Inland Revenue account manager or a taxpayer rulings manager.

Requests for reassessments

Although we make every attempt to correctly assess both your tax obligations and entitlements, errors sometimes occur. In these cases you may seek a reassessment of tax or an entitlement such as Working for Families Tax Credits.

When you ask for a reassessment to be considered it's important you provide all the relevant detail and supporting information.

Standard Practice Statement 07/03 sets out the process for the Commissioner to amend assessments to ensure their accuracy.

What we need from you

When you request a reassessment on behalf of a client you must provide all the relevant information to substantiate the claim in writing. This should include:

- the tax types and periods containing the errors
- the amount of tax in error

- a description of the errors including the background circumstances and the reasons for their occurrence
- the nature of the errors, including any relevant tax laws
- how and why the errors were identified
- relevant details of any incorrect advice given directly to the taxpayers by Inland Revenue and how the taxpayers relied on that advice
- the action required to ensure accuracy
- all other relevant documents and records supporting the request.

When you request a reassessment of a FIF case or shareholder loss of continuity, supporting documentation is especially important.

If you don't provide the information with the original request this will slow the outcome while we wait for it to be sent in.

