

# AGENTS ANSWERS

Inland Revenue's tax agents' update

Issue No 120 • December 2009 • IR 787



## Seasons greetings

Another busy year is almost at an end. We appreciate all the support and feedback you've given us over the past 12 months and wish you and your families a safe, happy and restful break. We look forward to working with you again in 2010.

*Katrina Williams*

(Manager, Customer & Product Innovation)

## Our services during the holiday season

The table below shows when the 0800 tax agent number will be operating during the holiday break.

Saturday	19 December	9 am – 1 pm
Monday	21 December	8 am – 8 pm
Tuesday	22 December	8 am – 8 pm
Wednesday	23 December	8 am – 8 pm
Thursday	24 December	8 am – 5 pm
Friday	25 December	Closed
Saturday	26 December	Closed
Monday	28 December	Closed
Tuesday	29 December	Closed
Wednesday	30 December	Closed
Thursday	31 December	Closed
Friday	1 January	Closed
Saturday	2 January	Closed
Monday	4 January	Closed
Tuesday	5 January	8 am – 8 pm

Our normal hours (8 am to 8 pm weekdays and 9 am to 1 pm Saturdays) resume on Tuesday **5 January 2010**.

The **E-File** system and **helpdesk** will be unavailable from midday Thursday **24 December** until Tuesday **5 January 2010**.

Our 0800 self-service will be unavailable from **25–28 December** and will start again at 6 am on Tuesday **29 December**.



**Inland Revenue**  
Te Tari Taake

## Welcome to Agents Answers

In this issue: Our services during the holiday season, fewer guides in our taxpack mail-outs, our *Business Tax Update* newsletter, correspondence guidelines, new features for 0800 numbers, Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009, tax pooling, registration requirements for limited partnerships, 10% voluntary repayment bonus for student loan borrowers, transferring commissions from refunds to cease, making tax payments on time.

*If you have any suggestions for topics you'd like covered in this newsletter, email [agents.answers@ird.govt.nz](mailto:agents.answers@ird.govt.nz)*



## Reminders

**L letters:** L letters will be turned off on Monday 15 February 2010.

### Tax payments due on 7 February 2010:

This is for all terminal tax payments that aren't covered by an extension of time. You can make payments by:

- online banking
- automatic payment
- direct credit
- posting us a cheque
- visiting any Westpac branch.

### Filing dates – February 12 guidelines:

- 80% of clients under standard balance dates
- 78.5% of clients under E-File
- 75% of clients with late balance dates.

## Our Business Tax Update newsletter

Did you know we no longer publish *Payroll News* and *GST News*? We've combined them into a new, improved, online-only newsletter called *Business Tax Update*.

*Business Tax Update* provides tax updates on PAYE, GST, FBT and other business tax issues.

To subscribe to receive an email alert when each issue is published go to [www.ird.govt.nz/subscribe](http://www.ird.govt.nz/subscribe)

## Correspondence guidelines

Half the battle in getting a timely response from us is knowing how to word your correspondence and requests in a way that gives us all the information we need.

Guidelines are available on the tax agents' page of our website that outline the information we need when considering your requests. To read them go to [www.ird.govt.nz](http://www.ird.govt.nz) (keywords: ta guidelines).

Knowing what we need and providing only that means you're less likely to be contacted by us for additional information and so you get a much quicker response.

**Note:** The guidelines don't override any legislation, standard practice statements, publications or forms that have been released. Where there are standard practice statements, publications or forms, these must be followed.

The following topics are covered in the guidelines:

- election not to depreciate an asset
- determination of residency status
- voluntary strike-off requests
- request for change of balance date
- livestock election
- application to use buyer-created invoices
- application to pay wages to a spouse
- remission of penalty requests
- request to set up an instalment arrangement.

If you'd like other topics to be included here please let your agent account manager know. We're happy to consider your suggestions.

## Change to FBT returns

Over the past couple of months we've made some changes to our forms and publications to keep our information current for you. We also need to make sure we're meeting New Zealand Post standards.

From this month the *Fringe benefit tax quarterly return (IR 420)* will be printed in black and white with a purple strip on either side to help you identify your FBT return. The text on your returns will be clearer and line up with the headings to make them easier for you to read.

The returns won't have a carbon copy so you'll need to keep a photocopy for your records.

If you're not doing so already you can file your FBT return online go to [www.ird.govt.nz](http://www.ird.govt.nz) "Get it done online". Remember to print a copy of the form for your file.

## New features for 0800 numbers

The introduction of a voice recognition system across all our contact centres is making great progress.

In August we piloted several features at one of our contact centres. We initially focused on phone contact from individual customers. In November we expanded this to include some business functions and some self-service areas. This December the voice recognition system will be made available to tax agents.

### Smart phone responds to your questions

The new features allow our phone system to understand your speech and identify key words from your query. It then sends you to the right place or a person who can help.

For example, if you call to check progress on a client's IR 3 tax refund, you can say "I'd like to find out the status of a client's IR 3 tax refund". Based on key words, such as "IR 3" and "refund", your call will be transferred to a staff member who can help with your request.

Another new feature identifies (via your agency and client IRD number entered) and verifies you by your current INFOexpress personal identification number (PIN), and this all happens before you even speak to a staff member.

## Tax pooling

A number of amendments have been made to the provisional tax pooling rules to ensure the legislation reflects the original policy intent. These extend tax pooling to include reassessments of taxes such as voluntary disclosures and reassessments after the resolution of disputes.

The key amendments cover:

- general pooling usage
- 60 day allowance to purchase fund
- clarification on pool fund payment priorities
- clarification on transfers
- new rules for:
  - pooling fund and reassessments
  - reassessments and fund usage
  - changing tax pooling intermediaries
- clarification of term "tax paid".

A commentary will be available in the *Tax Information Bulletin* Part II Vol 21, No 8, at [www.ird.govt.nz](http://www.ird.govt.nz) "Newsletters and bulletins".

## Taxation (International Taxation, Life Insurance, and Remedial Matters) Act 2009

We commented in the November issue of *Agents Answers* on the new Taxation (International Taxation, Life Insurance, and Remedial Matters) Act, which gives effect to a number of business tax reforms. We provide more detail here on:

- FIF (foreign investment fund) rules
- PIE (portfolio investor entities) rewrite and remedial changes
- the emissions trading scheme.

For further information on the new Act go to [www.taxpolicy.ird.govt.nz](http://www.taxpolicy.ird.govt.nz) or email us. A full commentary on the new Act is given in the October/November *Tax Information Bulletin*, Part II.

### FIF rules

There are a number of remedial changes and new rules to cater for different circumstances.

Changes have been made to the rules regarding: venture capital and Australian exemptions, clarification of the exchange rate to be used for opening value under the comparative value method, corrections to the cost method, hedging, excluding managed funds from the grey list exception in the fair dividend rate method and for the comparative value method loss restriction applies to foreign superannuation and foreign life insurance interests.

New rules have been introduced to allow:

- a person that was previously using the accounting profits or branch equivalent method a one-off opportunity to change to the fair dividend rate method
- a deemed sale and reacquisition when a FIF becomes a New Zealand resident
- rebates of management fees are separately taxable and not excluded as covered by the FIF income calculated income.

### PIE rewrite and remedial changes

There are a number of remedial changes—the PIE rules have been redrafted in the rewrite style and moved from subpart HL to HM. The rewritten rules come into effect on 1 April 2010. Most of the remedial changes apply from 1 October 2007 or 1 April 2009, with new rules generally applying from 1 April 2010.

Changes to the rules include transfer of expenditure from a member superannuation fund to a master fund that is a PIE, clarification of the rules around breaches, cessation and eligibility criteria for entities that meet the public unit trust definition, excluding lease income derived from associated or stapled entities for land-owning entities (such as airports and retirement villages).

New rules have been introduced to extend the time by which investor adjustments are required to be made, include community trusts in the list of entities that do not upset the investor size and investor number requirements, allow the Commissioner to override an investors notified rate, allow trustees to choose the 19.5% PIR for the 2009 income year.

### Emissions trading scheme

New provisions inserted into the Income Tax Act 2007 provide for the tax treatment of emissions trading units outside the forestry sector. Emissions units are treated as excepted financial arrangements which are revenue account property. Emissions units purchased will generally be deductible on acquisition, but added back at cost at year end to the extent they are still on hand. Income from the receipt of emissions units from government is assessable on an accruals basis.

Most costs of emissions trading will be tax-deductible, and the government subsidy (the award of “free” emission units by government) of emissions costs will generally be assessable. The specific taxation treatment varies depending on the emissions type, of which there are four:

1. non-forestry – generally dealt with on an accruals basis
2. post-1989 forestry – dealt with on a cash basis
3. pre-1990 forestry where the land is held on capital account – outside the tax system
4. pre-1990 forestry where the land is held on revenue account – special rules apply.

The income tax amendments made by the new Act have an application date of 1 January 2009.

The supply of emissions units is zero-rated for GST purposes. Supplies made by businesses to government for the receipt of emissions units under the emissions trading scheme or the permanent forest sink initiative are also zero-rated.

GST zero-rating generally applies from 26 September 2008.

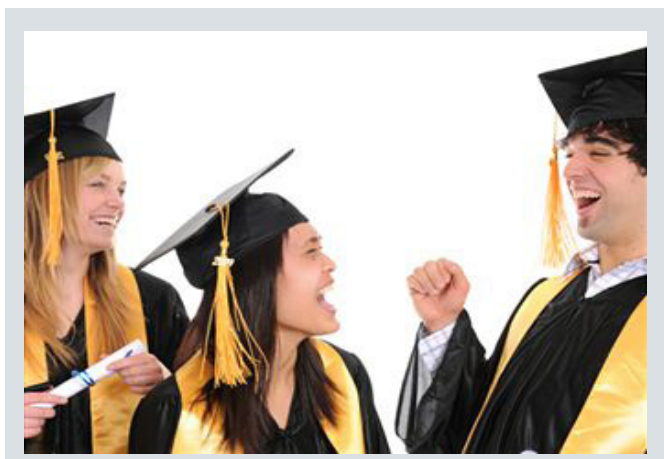
Zero-rating has also been extended to certain other emissions units which are sometimes called “grey market” or “voluntary” units.

The new provisions apply to units which are:

- issued by reference to the sequestration, or avoidance of emission, of human-induced greenhouse gases, and
- verified to an internationally recognised standard.

This change takes effect from 1 April 2010.

## 10% voluntary repayment bonus for student loan borrowers



From 1 April 2009, student loan borrowers who make voluntary loan repayments of \$500 or more in a tax year will receive a 10% voluntary repayment bonus. For example, if a borrower made voluntary repayments of \$800 over a tax year, they would receive a bonus of \$80 and their loan balance would be reduced by \$880.

Borrowers can make small voluntary repayments throughout the tax year and qualify as long as the total paid is \$500 or more than their repayment obligation. For example, they could pay \$10 a week extra and still be eligible.

The legislation comes into force on 1 April 2010, at which point the bonus will be applied retrospectively to eligible borrowers' loans, taking into account all voluntary repayments made from 1 April 2009.

### Eligibility

To be eligible for the bonus, borrowers must:

- be up to date with their repayment obligations, this includes making repayments by the due date, using the correct tax code and filing income tax returns (if required)
- make voluntary repayments for the tax year totalling \$500 or more
- have a loan balance with Inland Revenue of \$550 or more at the beginning of the tax year (1 April).

Eligible borrowers don't need to apply to receive the voluntary repayment bonus.

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## Deductibility of Sky Country Channel subscription

Inland Revenue has been asked whether taxpayers are entitled to a deduction for the cost of subscribing to the new Country Channel paid to Sky Television.

A subscription paid to Sky Television is made up of a number of parts. Every customer needs to subscribe to the Basic Sky package, currently costing \$11.75 per week. Then they're able to add extra packages to their basic subscription. One of those is the Country Channel, costing \$3.35 per week.

We have concluded that although the cost of subscribing to the Sky Country Channel could be deductible, provided there is a sufficient nexus

### Personal tax summaries (PTS) and IR 3 filers

If borrowers need a PTS they should receive their voluntary repayment bonus from June/July after their PTS has been finalised.

If borrowers file an IR 3 we'll need to process this first and apply the voluntary repayment bonus to their loan balance shortly after.

### Overseas-based borrowers

For the 2010 tax year, overseas-based borrowers will receive any voluntary repayment bonus they're entitled to from May 2010.

### Everyone else

New Zealand-based borrowers who aren't required to file an IR 3 or receive a PTS will receive their voluntary repayment bonus from June/July.

### Repaying student loans in full

Eligible borrowers have two options:

1. **pay the amount of their loan balance in full** – once the voluntary repayment bonus has been applied, any overpayment will be refunded after 1 April 2010 (note that this only applies for the 2010 tax year, after this the bonus will be credited shortly after the loan is repaid)
2. **pay 10/11ths of the loan balance** – as long as they're up to date with their repayment obligations and pay the amount within 15 days of getting their loan balance, this amount should be enough to cover their loan balance in full once the voluntary repayment bonus is applied.

Overseas-based borrowers will have any interest reversed that is charged between the date of their final repayment and the date the voluntary repayment bonus is applied.

For more information go to [www.ird.govt.nz/studentloans](http://www.ird.govt.nz/studentloans)

**Note:** As when making any financial decisions, borrowers are advised to seek appropriate financial advice before taking advantage of the voluntary repayment bonus.

between the expenditure and the taxpayer's business, the cost of the Basic Sky package would not be deductible because:

- it doesn't satisfy the general permission under section DA 1 of the Income Tax Act 2007
- if it did satisfy the general permission, deductibility would be denied by the private limitation under section DA 2(2).

Therefore, only the subscription paid specifically for the Country Channel is deductible for tax purposes, provided the business nexus test under section DA 1 of the Income Tax Act 2007 is met.

## Registration requirements for limited partnerships

We've received some IRD number applications for limited partnerships where there's no IRD number for either or both partners. Although a limited partnership is a separate legal entity under section 11 of the Limited Partnerships Act 2008, the Income Tax Act 2007 treats them the same as a "standard" partnership with the partners being taxed individually.

A limited partnership must have at least one general and one limited partner, and these must have IRD numbers.

This means that all partners in a limited partnership must be shown on the IRD number application form along with their IRD number.

Some non-trading companies don't have to file tax returns (see section 43A of the Tax Administration Act 1994), and as a result don't need to have IRD numbers. However, once becoming a partner in a limited partnership an IRD number is required.

## Transferring commissions from refunds to cease

Some tax agents have, as part of their business model, a practice of deducting their commission (or fee for service) from the refund owing to their client. They request Inland Revenue to transfer this amount into their own income tax or GST account.

From 1 January 2010 Inland Revenue will no longer transfer commission/fees to your GST or income tax accounts.

### How will this affect you?

If you usually request a transfer of your fee to your income tax or GST account, in most cases you'll need to arrange an alternative method to receive this fee.

Where full payment isn't made direct to your client, and where payments (full or in part) may be made direct to you as a tax agent we'd prefer the payments be made to a trust account in the name of the tax agent/agency. This offers benefits to all parties by protecting the integrity of you the tax agent, providing reassurance for your clients, and by not using Inland Revenue resources.

If you're not able to find an alternative and think you have a special case, talk to you agent account manager.

## Correction

In the November *Agents Answers*, the article "Tax treatment of reimbursements and honoraria paid to volunteers" stated that the rules would apply from 1 April 2008. This should have read the rules apply for the 2009-10 and later income years.

## Trouble making tax payments on time?

If you think you or your clients may have difficulty paying tax, call us on 0800 377 771 to discuss your circumstances.

In the lead-up to Christmas and the holiday season clients may be faced with more than the usual amount of bills—it's a challenging time managing costs.

We have options if you can't pay the full amount by the due date. Please call us as soon as you can on 0800 377 771.

### Look into payment options

Paying your tax on time is still the best option. If this can't be done, we'll work with you to find the best option for paying the amount due. We take individual circumstances into account when we do this and may consider options such as paying by instalments, if payment in full would result in hardship.

By contacting us early and entering into an instalment arrangement before the due date, you can avoid being charged the 4% late payment penalty. You'll still be required to pay the initial 1% penalty and interest will still be charged on the tax owing, but no further penalties will be charged during the term of the arrangement, provided the instalments are paid on time.

### Continue to file your return on time

Even if payment can't be made on time, returns must still be sent in on time to avoid late filing penalties. The penalties for late filing are separate to late payment penalties. The late filing penalty is charged at a flat rate for each *Employer monthly schedule (IR 348)*.

For more information on payment options go to [www.ird.govt.nz](http://www.ird.govt.nz) (keyword: debt).

## Fewer guides in our taxpack mail-outs

As part of our initiative to reduce the amount of paper we send out, we're now only including single copies of publications in our mail-outs.

In your March–April 2010 taxpack mail-out you'll receive only one copy of each return and guides won't be included in ad-hoc requests for 2010 taxpacks.

For the 2010 and future years, PAYE tax tables won't be mailed out to employers and payroll intermediaries.

Instead, we're encouraging all customers to view the most up-to-date guides and tables on our website at [www.ird.govt.nz](http://www.ird.govt.nz)

