

## GST and school activity fees

Inland Revenue recently released a binding ruling (BR Pub 03/04) relating to the treatment of GST and certain school activity fees. The ruling clarifies what had been a grey area in the application of tax law, with some schools charging GST on these payments and others not.

You can view the ruling on our website at [www.ird.govt.nz/gst/schoolfees.pdf](http://www.ird.govt.nz/gst/schoolfees.pdf) or in the *Tax Information Bulletin*, Vol 15, No 7 (July 2003) at [www.ird.govt.nz/library/newsletters/tib/](http://www.ird.govt.nz/library/newsletters/tib/)

### Ruling summary

"Payments made by parents or guardians of children who are New Zealand citizens or New Zealand residents (or who are otherwise not foreign students under the Education Act 1989) and who are enrolled at state schools to the Board of Trustees of such a school for the purpose of a general fund to assist with meeting school costs, are not consideration for the supply of education to which there is a statutory entitlement and which the Board has a statutory obligation to provide free of charge. Therefore, GST is not payable on such amounts."

Fees collected generally fall into two groups:

- Fees collected for the general benefit of the school, commonly called "school fees". As students have a statutory entitlement to free education, payment of these fees can't be enforced. Most schools already correctly treat any payment received for these fees as donations and don't include them in their GST returns.
- Fees collected for specific activities, subjects and materials, commonly called "activity fees". The ruling now confirms that some of these fees are in fact linked to the provision of free education—the student is entitled to participate in the activity or receive the materials whether or not payment of a fee is received from the parent or guardian. GST will no longer apply to payments of subject-specific costs and other charges that are an integral part of the school curriculum. These charges, which may vary from school to school, are for activities connected to the curriculum and may include, for example, charges for technology and music classes.

### Actions required

If a school has been following the guidelines set out in the Ministry of Education *Circular 1998/25*, which clarifies the rights of boards of trustees when requesting donations and other forms of payments, it is likely that they will not be affected by this ruling. You can view the circular at [www.minedu.govt.nz/goto/circulars](http://www.minedu.govt.nz/goto/circulars) or phone a local office of the Ministry of Education for a copy.

Schools that are affected will need to work out what impact the ruling is likely to have on them. They may need to stop charging GST on certain fees and stop including them in their GST returns. They may also be entitled to GST refunds where these fees have been included in their GST returns. An information pack has been sent to all state and state-integrated schools and schools' financial service providers. In addition, we have set up a freephone number, 0800 473 003, for enquiries on this issue.

### Possible implications for rebate claims

Parents or guardians who have paid these fees in the past may be entitled to a rebate if:

- they haven't already claimed a rebate for these payments
- they haven't already claimed the maximum \$500 (or \$630 for the year ended 31 March 2003) for other donations, and
- they have a receipt from the school.

## Trans-Tasman imputation

The Taxation (Annual Rates, GST, Trans-Tasman Imputation and Miscellaneous Provisions) Bill introduced on 23 June 2003 includes proposed changes to the imputation laws for trans-Tasman imputation (TTI).

The Australian and New Zealand governments have introduced the measures to address the double taxation of certain trans-Tasman investments. The New Zealand reforms allow Australian companies to elect into New Zealand's imputation credit account (ICA) system. Companies who choose to elect in will have to comply with all the existing administrative requirements for imputation.

The New Zealand Government's bill proposes that Australian companies will be able to maintain New Zealand imputation accounts from 1 April 2003, and pay dividends with New Zealand ICA credits attached from 1 October 2003. Credit for any New Zealand tax paid can then be passed on to their New Zealand shareholders in proportion to the total New Zealand shareholding.

In addition, the bill proposes a new form of imputation grouping based on the consolidation rules, which Australian companies can also join. Please refer to the commentary on the bill at [www.taxpolicy.ird.govt.nz/publications/index.php?catid=1](http://www.taxpolicy.ird.govt.nz/publications/index.php?catid=1) for more details of these changes.

Imputation factsheets, including a joint Australian Tax Office (ATO) and Inland Revenue summary of the current imputation rules in both countries, can be found on the "trans-Tasman imputation" page of our website at

[www.ird.govt.nz/othertaxes/transtasmanimputation/](http://www.ird.govt.nz/othertaxes/transtasmanimputation/) Information including contact details and details of the election process are also available on this site.

Australian rules that allow a New Zealand company to choose to enter the Australian system became law on 30 June 2003. The rules are contained in the Taxation Laws Amendment Act (No 6) 2003, which received royal assent on 30 June 2003. Identical application dates to the New Zealand legislation apply. More information for New Zealand companies is available from the "For Businesses" section of the ATO website at [www.ato.gov.au/businesses/](http://www.ato.gov.au/businesses/)

## Provisional tax report

As a result of your feedback, we have made some changes to the provisional tax report we send you during the year for your clients that pay provisional tax. We hope you will find the report an improvement and that it will reduce the need for you to phone us about transactions on your clients' provisional tax accounts.

You will receive the new report towards the end of this month and then next April. These reports will normally be issued in July and April each year, but we wanted to send you the report in the new format now rather than have you wait until April to view the changes.

You can also request this report at other times during the year through your agent account manager.

If you want to give feedback on the report format, please email us at [tax.agent@ird.govt.nz](mailto:tax.agent@ird.govt.nz)



## Income equalisation refunds – clarification

Standard Practice Statement (IR-SPS) GNL-400 Income equalisation deposits and refunds, which was published in *Tax Information Bulletin*, Vol 15, No 5 (May 2003), sets out the Commissioner's practice in respect of accepting a deposit to or an application for a refund from the Income Equalisation Scheme for an elected accounting year. It applies to deposits made and applications for refunds received in respect of the 2003 and subsequent income years. You can view the *Tax Information Bulletin* at [www.ird.govt.nz/library/newsletters/tib/vol15/vol15-05.html](http://www.ird.govt.nz/library/newsletters/tib/vol15/vol15-05.html)

Subsequent to the release of this SPS, it has come to our attention that there may be some confusion about when a refund from the Income Equalisation Scheme is deemed to be gross income. Section EI 4(5) of the Income Tax Act 1994 determines when a refund is to be treated as gross income.

A refund from the Income Equalisation Scheme is deemed to be gross income in the accounting year in which the application for the refund is received by the Commissioner, irrespective of when the taxpayer actually receives the refund amount.

### Example 1

*A taxpayer with a balance date of 30 June makes an application for a refund from the scheme and it is received by the Commissioner on 25 June 2003. The refund is paid out on 2 July 2003. The refund will form part of the gross income for the accounting year ended 30 June 2003.*

Where a taxpayer applies for a refund in the current accounting year, the taxpayer may elect to treat the refund as gross income in the previous accounting year, provided the application was made within the time limit specified by the Commissioner in SPS GNL-400.

### Example 2

*A taxpayer with a balance date of 30 June makes an application for a refund from the scheme and it is received by the Commissioner on 4 July 2003. The taxpayer has the option of treating the refund as gross income in the accounting year in which the application was received (that is for the year ending 30 June 2004) or electing that the refund is gross income for the accounting year ending 30 June 2003.*

*The taxpayer cannot elect to treat the refund as gross income in the accounting year ending 30 June 2005.*

## Withdrawal of Standard Practice Statements

**Standard Practice Statement (IR-SPS) INV-570 Shortfall penalties – application where returns are amended before due date**, which expired on 31 March, is formally withdrawn from 1 August 2003.

**Standard Practice Statement (IR-SPS) RDC-5 Late Filing Penalty**, as published in *Tax Information Bulletin*, Vol 11, No 6 (July 1999), is withdrawn from 1 August 2003. This is due to

## Industry Partnership update

In previous issues of *AGENTSanswers* we introduced the Industry Partnership initiative to you. We want to keep you informed of the progress of the initiative because we recognise the key role tax agents play in working with businesses to support compliance.

### New relationships formed

Since March, we have formed relationships with a range of new industries:

- automotive repairers (Collision Repair Association, the Motor Trade Association)
- hairdressing (NZ Association of Hairdressers)
- long-distance bus and coach drivers (Bus and Coach Association NZ), and
- plumbers (Master Plumbers, Gasfitters & Drainlayers NZ Inc).

Inland Revenue is now working in relationship with nine industries. We are also continuing discussions with industries in the arts, construction, home services and hospitality.

### Some results to date

Industry Partnership field team staff working together across Inland Revenue are finding that the coordinated approach can really help taxpayers resolve compliance issues.

The teams are working with agent account managers to identify the reasons for non-compliance, opportunities for information and process improvement. We feel it is important for industry members to be able to access the resources and services available to help them meet their obligations, including using the expertise of a tax agent, and having agent account managers working with Industry Partnership will help achieve this.

In the one year since Industry Partnership was formed, the initiative has made much progress in improving compliance. Since June 2002 for painters and decorators and electricians, outstanding returns and the number of debt cases have reduced, there has been an overall reduction in outstanding debt and the percentage of total debt under arrangement has more than doubled.

These results are heartening and reflect the range of activities undertaken by our Industry Partnership field staff to support this initiative such as:

- surveying industries to determine the needs of their members
- proactively contacting electrical contractors and painters to promote Industry Partnership and Inland Revenue's free advisory services
- encouraging painters to review the way they account for GST. This has met a specific need identified in the Master Painters Survey.

the length of time the SPS has been in force and the fact that PAYE and ACC reconciliation statements, ACC employer premium statements and ACC residual claims levy statements are no longer required to be filed by taxpayers.

This SPS is currently being reviewed and a replacement SPS will be issued in due course.



## Non-standard balance dates

If you want your clients to have an income tax balance date other than the standard 31 March, you must apply in writing to us.

### Types of non-standard balance dates

Non-standard balance dates fall into two categories:

- An early balance date is one that falls in the period 1 October to 30 March (inclusive) in the six months before 31 March.
- A late balance date is one that falls in the period 1 April to 30 September in the six months after 31 March.

Some industries have recognised non-standard balance dates. These are shown in the table below.

<b>Industry</b>	<b>Balance date</b>
Apiarist	30 November or 31 December
Beef cattle or dairy farming	31 May
Education and childcare related services	31 December
Fishing	30 September
Horse breeding	31 July
Kiwifruit orchard	31 March, 30 April, 31 May or 30 June
Meat processing and export	31 August or 30 September
Pipfruit orchard	31 December
Seed dressers	30 November
Sheep farming	30 June
Tobacco growing	31 July

### How to apply for a non-standard balance date

You need to include the following information in your written application:

- your client's full name and IRD number
- the industry your client belongs to
- the balance date you want to use
- reasons why you want to use a non-standard balance date
- the names of any associated businesses that already use this balance date (and their IRD number if known).

If your client does not belong to one of the industry groups mentioned or you want to use a non-standard balance date not specified above, you need to include the following additional information in your written application:

- details of actual or predicted cash flows, stock patterns, customer demands and seasonal patterns
- any other information to show that financial accounts prepared to the proposed non-standard balance date would be more appropriate than using a 31 March balance date.

### Backdating a non-standard balance date application

The Commissioner's policy is not to allow a taxpayer to backdate their application for a non-standard balance date because it would mean carrying back a known income or loss into a prior income year.

### Non-resident companies who have non-standard balance dates

Companies that do not have a fixed establishment in New Zealand and are not deemed to be resident in New Zealand are required to pay their terminal tax on:

- 7 February in the next income year, or
- 7 April in the income year following the next income year, if the company's return of income giving rise to the terminal tax liability was linked to a tax agent who has an extension of time.

This rule applies even if the company has a non-standard balance date.

There are cases where our system does not recognise this rule and will provide a different due date depending on the non-standard balance date. If your clients are affected by this rule please bear this in mind and contact us if you believe we have given an incorrect terminal tax due date. We apologise for any inconvenience caused.

## GST and secondhand goods

If a taxpayer purchases goods from an unregistered person, they may make a secondhand goods claim, subject to various limitations and restrictions in legislation. Our *GST guide (IR 375)* explains these further. You can find the guide on our website at [www.ird.govt.nz/library/publications/business/ir375.pdf](http://www.ird.govt.nz/library/publications/business/ir375.pdf) or order a copy through StationeryXpress or by phoning INFOexpress on 0800 257 773.

We have come across cases where GST input tax has been incorrectly claimed under the secondhand goods provisions. The following are some of the incorrect claims to look out for.

### Purchases from an associated person

There is a restriction on secondhand goods claims where a taxpayer purchases goods from an unregistered associated person. No GST input tax may be claimed if the associated person did not pay GST when buying the goods, for example, if the associated person bought the goods before 1 October 1986 or from another unregistered person.

### Secondhand goods claims by taxpayers on the invoice basis

Any secondhand goods claims are limited to the amount paid during the taxable period, regardless of the fact that the taxpayer is on the invoice accounting basis.

### Claims for supplies by GST-registered vendors

We have also come across cases where goods have been claimed as secondhand goods when the supplier is in fact GST-registered. If this is the case, the claim will not be allowable unless the taxpayer holds the relevant tax invoice documentation at the time the GST return is filed.

Please ensure that before making a secondhand goods claim, your client has written confirmation from the supplier that they are not registered for GST.



## Entity status of clients

In June we became aware that our system had incorrectly changed some of your clients from IR 3 filers to salary and wage earners. This meant you may not have received an IR 3 return for some clients this year and a personal tax summary (PTS) showing incorrect income details may have been sent to you instead.

Approximately 15,000 cases have been affected by the system error and the majority of these are clients of tax agents.

If some of your clients have been affected by this, we apologise for any inconvenience caused.

We are currently investigating ways of correcting the system but in the meantime there are a couple of things you need to be aware of:

- Your client list may be incorrect because it may show some clients as salary and wage earners rather than IR 3 filers.
- When you file an IR 3 return for your client, our system will automatically correct itself. You don't need to contact us to get this status changed beforehand unless you want to.

Once a decision has been made on how we will manage this system error, we'll let you know either through releases in *AGENTSanswers* or *Breaking news* or through your agent account manager or our customer service representatives. We regret any anxiety this may have caused you or your clients.

## Linking and delinking clients

### Bank accounts

When you link a client to your agency, please check that we have the most current contact and bank account details for your client. We have experienced cases where a tax agent has linked a client to their agency but the bank account listed in our system belongs to the previous tax agent and refunds are then issued to this account.

We can terminate a bank account over the phone for you if you are authorised to act on behalf of your client.

To get a new bank account added, you can either send in a completed *Fast refunds – Direct credit authorisation (IR 587)* form or write to us giving the following details:

- the taxpayer's full name and IRD number
- the full bank account number
- the name of the account holder
- the name of the bank and branch
- all tax types for which the new account is to apply
- your contact phone number
- either the taxpayer's or your signature.

You can get an IR 587 form from our website at [www.ird.govt.nz](http://www.ird.govt.nz) or order a copy by phoning INFOexpress on 0800 257 773.

### Reason for delinking

Sometimes you may delink a client from your agency list because they have died or the business they were running is now ceased. In these cases, please advise us of any changes to these clients before you delink them. We rely on you to keep us informed of any account changes for your clients and if we are not aware of these changes this can cause difficulty for us and your former clients.

## Cessation of a taxable activity for GST purposes

We have recently become aware that there are a number of GST registered clients of tax agents who have continued filing "Nil" GST returns for periods of longer than 12 months without notifying us.

Inland Revenue must be notified when taxable activities for GST purposes cease within 21 days of that activity ceasing. Notification must be in writing, stating the date your client ceased the activities and whether they intend to carry on a taxable activity within 12 months from that date.

You can inform us when one of your clients has ceased activities by completing a *Ceasing a client's tax type (IR 794)* form. You can get one from our website at [www.ird.govt.nz](http://www.ird.govt.nz) or order one through StationeryXpress, or phone INFOexpress on 0800 257 773.

If you have clients who are unwilling to deregister for GST when you consider that they are no longer carrying on a taxable activity (such as not operating their activity in a business-like manner), we recommend that you notify your client in writing of their obligations and the risks of shortfall penalties.

## Ceasing a taxpayer and removing them from your Client List

Taxpayers are ceased when the tax entity either no longer exists or has no further tax obligations. For individuals this may be if they have died, left New Zealand permanently or been declared bankrupt. For companies this is if they have been struck off and for partnerships, if the partnership has been dissolved.

A taxpayer is often not ceased even though the "Final return" box is ticked on the return. This is because the taxpayer must stay active until the assessment has been completed. Sometimes a follow-up request is necessary.

There are three steps you should follow in the process of ceasing a taxpayer:

- Ceasing your client by phoning the tax agents' helpline. "C" for "Ceased" will be printed beside the client's name on your Client List.
- Ensuring all future returns for the client have been recorded as "Not required". Check that an "N" is showing in the "Return required" column of your Client List. If there isn't, advise us that your client is not required to file by phoning the tax agents' helpline.
- Finally, once the taxpayer has a "C" for "Ceased" and an "N" for "Not required", you can safely delink to remove the client from your Client List. There should be no further communications from you to us about that taxpayer.

### Note from the editor

If our mailing details are incorrect, we have missed someone off the distribution list or you have suggestions for future topics, please contact:

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