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Inland Revenue
Te Tari Taake

Gift duty

A guide to gift duty and how
to pay it

Introduction

This booklet deals with the gift duty that is payable on certain gifts. It explains which gifts are liable for gift duty, and how to calculate and pay the duty on them.

If you need more information about gift duty after you have read this booklet, please contact:

The Duties Unit
Inland Revenue
PO Box 2871
Christchurch

Phone 0800 105 654
Fax 03 363 1840

We also have a booklet *Gift duty – A guide for practitioners (IR 195)* that provides an indepth explanation of gift duty. You can get it from our website or order a copy by phoning INFOexpress—see page 15.

The information in this booklet is based on current tax laws at the time of printing.

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What is gift duty?

Gift duty is a charge on any gifts over a certain value that one person makes to another. The person who gives the gift is primarily liable for any gift duty payable. The person receiving the gift is liable for any gift duty payable if the giver does not pay it. However, they may recover the amount paid from the giver.

For gift duty purposes, a gift is something given in either of these situations:

- when nothing is received in return
- when something is received in return, but its value is less than the value of the property given.

If something of lesser value is given in return for a gift, the value of the gift for gift duty purposes is the difference between the two values.

These items can all be gifts:

- transfers of any items of property (for example, company shares or land)
- any form of payment
- the creation of a trust
- a forgiveness or reduction of debt
- allowing a debt to remain outstanding so that it can't be collected by normal legal action.

Which gifts are liable for gift duty?

A gift of any property which is in New Zealand is liable for gift duty. In addition, a gift of property which is outside New Zealand is liable for gift duty if the giver's permanent home is in New Zealand or the giver is a company incorporated in New Zealand.

Rates of gift duty

There is no gift duty payable if the value of all gifts in any 12 months is less than \$27,000. As soon as the gifts that one person makes in any 12-month period add up to more than \$27,000, that person will have to pay gift duty.

This table shows the rates of gift duty.

Value of gift	Rate of duty
\$0 to \$27,000	Nil
\$27,001 to \$36,000	5% of amount over \$27,000
\$36,001 to \$54,000	\$450 plus 10% of amount over \$36,000
\$54,001 to \$72,000	\$2,250 plus 20% of amount over \$54,000
Over \$72,000	\$5,850 plus 25% of amount over \$72,000

In some cases, gifts must be recorded with Inland Revenue even if they are not liable for duty. For example, you must fill in a *Gift statement (IR 196)* if you make gifts with a combined total value of over \$12,000 in any 12-month period. You can get the IR 196 from our website or order copies by phoning INFOexpress—see page 15.

Working out the value of a gift

Often, property that is being given will have to be valued for gift duty purposes to work out the amount of duty payable. These are the acceptable valuation methods.

- Land** – either by agreement between the giver and Inland Revenue, or
 - by using an up-to-date rating valuation or a special valuation.
- Other property** – the giver may have to provide a valuation that is satisfactory to Inland Revenue.

When several gifts are made within 12 months

If one person makes several gifts within a 12-month period, the value of the gifts must be added together to work out the gift duty. The duty on the total gifts is then apportioned to each of the gifts included. The 12-month period includes the day on which the gift was made.

Example

- 1 April 2005** “A” makes a gift of \$30,000 on which they pay gift duty of \$150.
- 5 August 2005** “A” makes another gift of \$10,000.

The total value of the gifts for the 12-month period ending on 5 August is \$40,000. The gift duty on \$40,000 is \$850. However, “A” has already paid \$150 so \$700 is payable on the second gift. The total gift duty paid (\$850) would be apportioned between the two gifts—see the table on page 9.

Date	Gift	% of total	Proportion of duty allocated to gift
1 April 2005	\$30,000	75%	\$637.50
5 August 2005	\$10,000	25%	\$212.50
Total	\$40,000	100%	\$850.00

If “A” then made a third gift within 12 months of 5 August 2005, but more than 12 months after 1 April 2005, that gift would be aggregated with the \$10,000 given on 5 August 2005 when calculating the gift duty. “A” would then be able to claim a credit of \$212.50 as gift duty already paid on the \$10,000 gift.

Value of the gift when the giver retains an interest in it

A person who makes a gift may reserve an interest in it for themselves. For example, a parent may gift a home to a child, with the reservation that the parent will live in the house until they die.

In some cases when there is a reservation, the value of the reservation is ignored, so gift duty is payable on the full value of the property.

The rules about what does or does not count as a gift when the giver retains an interest in it depend on the particular circumstances. If you intend making such a gift, you’ll need to check with us to find out if gift duty is payable.

Where the reservation of an interest in property results in a person making a greater gift than intended, they can write to us to cancel or amend the document creating the gift. The application should be made within six months of the date of that document, although we can extend this period in special circumstances.

The date on which a gift is complete

A gift potentially becomes liable for gift duty on the date on which it becomes complete. Generally, a gift is complete when the giver cannot take it back. This will happen at these times for various types of gifts.

Cash

When physically handed over.

Cheque

On the date when either:

- the cheque is given, or
- the cheque is cashed.

The same basis should be used each year.

Land

The earlier of these two dates:

- when the document is registered at Land Information New Zealand, or
- when the person receiving the land has all the documents needed to register the transfer.

Note

If the same solicitor or agent is acting for both the donor and the donee, the gift will not be complete until the document is registered at Land Information New Zealand.

For a gift of land that creates a valid trust, the gift is complete on the date the trust is created.

Shares

As for land, except when the document is registered by the company.

Other goods

When the goods are handed over, or there is a deed of assignment.

Debt release and forgiveness

When a deed of release or forgiveness is completed.

Gifts that are exempt from gift duty

These types of gifts are not subject to gift duty:

- small gifts, up to \$2,000 total value to any one recipient in one calendar year, as long as they are part of the giver's normal expenses
- gifts for support and education of relatives (provided these gifts are not excessive)
- gifts that create a charitable trust, and any gifts to a charitable trust
- employers' contributions to employees' superannuation funds
- retirement payments and special bonuses or gratuities
- settling a home as a joint family home
- any disposal of property under the Property (Relationships) Act 1976, as long as the recipient gets no more than 50% of the total relationship property.

An exempt gift does not count towards the \$27,000 of gifts that a taxpayer can make in a 12-month period before being liable for gift duty.

Forms to be completed when making a gift

Anyone who makes a gift must complete a *Gift statement (IR 196)* if:

- the value of the gift is over \$12,000
- the value of the gift takes the total value of all gifts by that person in the last 12 months over \$12,000.

Within three months of making the gift, the person must complete the gift statement form and send two copies to the Duties Unit in our Christchurch Office.

Be sure to include all supporting documentation with the gift statement, such as the deed of reduction of debt or valuation of property.

When we receive the gift statement forms, we will send you an assessment if you are liable to pay gift duty. We will also return one copy of the gift statement form to you once we've checked it.

You can get a copy of the *Gift statement (IR 196)* from our website or order copies by phoning INFOexpress—see page 15.

Paying the gift duty

Gift duty must be paid within six months of the date of the gift, regardless of whether we have sent you an assessment.

You can make your payment by posting a cheque to:

The Duties Unit
Inland Revenue
PO Box 2871
Christchurch

Please make all cheques payable to “Inland Revenue” and cross them “Not transferable”.
Do not send cash.

Late payment

If gift duty is not paid by the due date, late payment penalties will apply. For every month the amount remains unpaid, a further incremental penalty will apply. We will also charge interest on any outstanding amounts.

For penalties imposed on or after 1 April 2002

An initial 1% late payment penalty will be charged on the day after the due date. Any amount of unpaid duty (including penalties) outstanding at the end of the 7th day from the due date will incur a further 4% initial penalty.

Every month the amount owing remains unpaid a further 1% incremental penalty will be added.

Amounts of \$100 or less

Interest and late payment penalties are not charged on outstanding amounts of \$100 or less.

Arrangements

If you are unable to pay your gift duty by the due date, please contact us to discuss an arrangement for making payments. In some situations, if you are in financial difficulties, we may agree to you paying your gift duty and any penalties and interest this way.

Arrangements can be agreed upon before or after the due date for payment. However, there are greater reductions in the penalties charged if the arrangement is made before the due date.

Disputing a gift duty assessment

If you disagree with our gift duty assessment and we don't accept that our assessment is wrong, you must use the disputes resolution process. This process has certain steps that you must follow.

Note

You must dispute the assessment within four months of the date of the assessment.

These steps are outlined in our factsheet *If you disagree with an assessment (IR 778)*.

If you are considering disputing an assessment, this factsheet will help you identify what action to take.

For full details about the disputes process, read our booklet *Disputing an assessment (IR 776)*. You can get both these publications from our website or order copies through INFOexpress—see page 15.

Inland Revenue's website

Visit our website at www.ird.govt.nz for detailed information about tax and social policy, access to our booklets, returns, forms, newsletters and public rulings, and a variety of interactive online services.

We regularly add new services to our site. You can register to get updates about these by clicking on **What's new** on the homepage.

INFOexpress

INFOexpress is our automated telephone service. You can use INFOexpress to:

- order Inland Revenue forms, guides and taxpacks
- get up-to-date account balances and request statements for income tax, GST, PAYE deductions, student loans, and child support
- follow the progress of your tax refund
- calculate your tax or work out your rebate claim entitlements
- find out about family assistance entitlements
- request a summary of earnings or a personal tax summary
- find out about student loan interest write-offs.

You can order stationery (forms and guides) and request personal tax summaries using our interactive voice response system (IVR). This lets you use your voice instead of keying in numbers on your telephone's keypad. For all other services you'll need to use a touch tone phone and key in numbers for options.

Remember to have your IRD number handy.

It's also helpful if you know the number or name of any forms or booklets you are ordering. For personal information, such as account balances,

you'll also need an INFOexpress PIN. You can get a PIN by phoning 0800 257 777 and following the instructions given.

You can phone INFOexpress for the following services between 6 am and 12 midnight, seven days a week.

- Forms and guides (IVR) 0800 257 773
- Request a personal tax summary (IVR) 0800 257 444
- Request a taxpack 0800 257 772
- Request a summary of earnings 0800 257 778
- Apply for a student loan interest write-off 0800 257 999
- All other services 0800 257 777

Privacy Act 1993

Meeting your tax obligations involves giving accurate information to Inland Revenue. We ask you for information so we can assess your liabilities and entitlements under the Acts we administer.

You must, by law, give us this information. Penalties may apply if you do not.

We may exchange information about you with Work and Income, the Department for Courts, the Ministry of Education, the Accident Compensation Corporation, or their contracted agencies.

Information may be provided to overseas countries with which New Zealand has an information supply agreement. Inland Revenue also has an agreement to supply information to Statistics New Zealand for statistical purposes only.

You may ask to see the personal information we hold about you by phoning us on 0800 377 774. Unless we have a lawful reason for withholding the information, we will show it to you and correct any errors.

Call recording

As part of our commitment to providing the best possible service to our customers, Inland Revenue records all telephone calls received through our call centres. Please visit our website at www.ird.govt.nz or contact us on 0800 377 774 for further information about our call recording policy and how you can access your recorded information.

If you have a complaint about our service

We're committed to providing you with good service. If there's a problem, we'd like to know about it and have the opportunity to fix it.

If you have a complaint, the quickest and easiest way to resolve it is usually with the staff member you've been dealing with. If you're not satisfied, ask to speak to their manager.

If you're still not satisfied, we have a Complaints Management Service that can take a fresh look at your complaint. You can call toll-free on 0800 274 138 between 8 am and 5 pm weekdays, go through our website www.ird.govt.nz or you can put your complaint in writing and send it to the Complaints Management Service, Inland Revenue, PO Box 1072, Wellington.

If you disagree with how we've assessed your duty, you may need to follow a formal disputes process. For more information, read our factsheet *If you disagree with an assessment (IR 778)*. You can get this from our website or by phoning INFOexpress—see page 15.

