CONTENTS

BUDGET CHANGES
Living Alone Payments 3
Donations and School Fees Rebate 3
Additional Bloodstock Expenses now Allowable 3
"Test Period" Motor Vehicle Log Books 4
Section 129 Interest Clawback Repealed 5
Gifts of Money by Public Companies 5
Designation of Income Equalisation Deposits 5
Section 188A $10,000 Loss Limitation Repealed 5
Maori Authority Income 6
Threshold Increase for PAYE and SSCWT Twice-Monthly Payments 6
Income Tax Payment and Provisional Tax Changes 7
Retirement Tax Rates 7
Consequential Amendment to Accident Compensation Act 7
Aligning of GST Taxable Periods with Income Tax Balance Dates 8
Change of Due Date for Payment of GST 8
GST Threshold Levels -
  - Payments Basis Threshold 9
  - Invoice Thresholds 9
  - Registration Threshold 9
Land Tax Abolition Act 1990 9
Taxation Reform Bill 10
Budget Announcements 10

Other Important Issues
Late IR 5 Returns 11
Income Tax (Withholding Payments) Regulations 1990 - Aircraft and Shipping Operators 11
Accruals Contact People soon to be Available 12
Depreciation Increase for Supermarket Trolleys 12
Due Dates Reminder 12
BUDGET CHANGES

The following articles set out the taxation changes in the 1990 Budget, which was presented on 24 July 1990

Tax measures in the 1990 Budget were in three parts:

1

In the Finance Bill (No 2) 1990 which was introduced to the House on Budget night and passed through all stages under urgency. The tax measures in the Finance Bill were enacted as the Income Tax Amendment Act (No 3) 1990, the GST Amendment Act (No 2) 1990 or the Land Tax Abolition Act 1990. These Acts were all assented to on 8 August 1990.

The issues covered are:

* Living Alone Payment for Guaranteed Retirement Income earners
* Donations and school fees rebate
* Bloodstock amendments
* Motor vehicle log book requirements
* Repeal of Sec 129 interest clawback
* Donations by public companies
* Income Equalisation Account
* Repeal of Sec 188A loss limitations
* Maori Authorities - distributed income
* Payment of PAYE and SSCWT deductions
* Provisional Tax
* Retirement Tax
* Accident Compensation Levy
* GST taxable periods
* GST payment date
* GST thresholds
* Land Tax

See Part 1 for details of each measure.

2

In the Taxation Reform Bill (No 2) 1990 which was introduced to Parliament on 26 July 1990. At the time of printing, this Bill had not been passed, and all items shown here may be subject to change during the Parliamentary process. Items contained in the Bill are described briefly in Part 2, based on the Bill as it was introduced. Detailed information will be printed in a later TIB when the Bill has been passed.

3

Announced by the Government as intended future actions, but without accompanying legislation. These are described briefly in Part 3, but could be subject to change during the Parliamentary process. A later TIB will cover these issues in depth when legislation has been introduced and passed.

Included with this TIB is a summary of the budget tax issues and application dates. Please contact your local Inland Revenue office if you want more copies of this summary.
PART ONE
FINANCE BILL (NO. 2) 1990

INCOME TAX AMENDMENT ACT (NO. 3) 1990

LIVING ALONE PAYMENTS
Sec 2, 4, and 14 - 22, Income Tax Amendment Act (No. 3) 1990

Starting on 26 September 1990, The Social Welfare Department will pay a living alone payment to Guaranteed Retirement Income Earners who live alone. These payments are in addition to Guaranteed Retirement Income. They will be subject to income tax, and treated in the same way as GRI for surcharge purposes.

Living alone payments will be paid to unmarried persons who are receiving Guaranteed Retirement Income or Veteran’s Pension, and who are living alone.

DONATIONS AND SCHOOL FEES REBATE
Sec 3, Income Tax Amendment Act (No. 3) 1990

Two amendments have been made to Section 56A of the principal Act.

The first amendment increases slightly the percentage figure for calculating the rebate on donations from 33 percent to 33 1/3 percent.

The second amendment increases the maximum allowed as a rebate under this section from $200 to $500. This means that donations up to a maximum of $1,500 will qualify for the rebate.

These amendments will apply from the income year commencing 1 April 1990.

ADDITIONAL BLOODSTOCK EXPENSES NOW ALLOWABLE
Sec 5 and 6, Income Tax Amendment Act (No 3) 1990

During April the Minister of Revenue undertook formal discussions with the bloodstock industry resulting in an announcement that certain minor amendments would be made to the bloodstock taxation regime to address various concerns raised by the Industry.

This Act gives effect to that announcement by -

- Amending section 86H of the Act to allow a taxpayer to write-down bloodstock 2 years of age or over which has been used for breeding, or is intended to be used for breeding.
Adoption of a Log Book

Section 7 of the Amendment Act replaces section 106B of the Principal Act. The new provisions provide that the keeping of a log book for a 90 day period will be sufficient to determine the proportion of use of a motor vehicle that is for business purposes.

The option to keep a log book expands the previous section 106B, which required that the deduction of expenditure and the allowance for depreciation had to be justified by the taxpayer keeping full and complete records for the entire income year.

A log book may be maintained by any self-employed taxpayer who uses a motor vehicle partly for business and partly for private purposes. The log book may then apply for a period up to 3 years.

However, the taxpayer is required to start a new log book where the business use of the motor vehicle decreases by 20 percentage points of total distance travelled (i.e. reduces by 20 percent of total usage on which the current log book is based) and the taxpayer considers that the log book no longer fairly represents the use of the motor vehicle.

The maintaining of a log book does not in any way amend the requirement to keep records verifying the expenditure incurred by the taxpayer, but simply apportions the usage of the vehicle between business and private use, in order to determine the deductible expenditure.

The Commissioner has powers to-
(a) Require the taxpayer to keep a further log book; and
(b) End the 3 year period to which a log book relates; and
(c) Decide that a log book is not representative of the use of a motor vehicle.

Option to Keep Full and Accurate Records

A taxpayer may choose to keep full and accurate records instead of a log book. These records may only apply in periods where the log book does not apply, or where the Commissioner approves their application during the period covered by the log book.

Absence of Full and Accurate Records

If a taxpayer does not retain a log book or full and accurate records for a period, the business use proportion will be calculated on those records which are available up to a maximum of 25%. If no records are kept no deduction will be allowed.

These amendments apply from the income year commencing on 1 April 1991 and for every subsequent year.

A section-by-section discussion of these changes is included as Appendix B to this TIB.

"TEST PERIOD" MOTOR VEHICLE LOG BOOKS

Sec 7, Income Tax Amendment Act (No. 3) 1990

...
**SECTION 129 INTEREST CLAWBACK REPEALED**

Sec 8, Income Tax Amendment Act (No. 3) 1990

Before Budget night, a taxpayer selling a property within 10 years of purchase which was used for any commercial activity except farming, was generally caught by the provisions of section 129. Under section 129, the taxpayer had to return all interest deductions claimed since purchase (but limited to the profit on sale) against the income received from that property. These interest clawback provisions ceased to apply from Budget night. Any sale or other disposal of property that takes place after 24 July will therefore not be subject to section 129.

Section 8 of the Income Tax Amendment Act (No. 3) 1990 achieves this by inserting a new subsection (A1) at the beginning of section 129.

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**GIFTS OF MONEY BY PUBLIC COMPANIES**

Sec 9, Income Tax Amendment Act (No. 3) 1990

Section 147 of the principal Act is amended to increase the maximum deduction that can be claimed for donations to any one donee. The new maximum limit is the greater of:

- 1 percent of the company’s assessable income; or
- $4,000.

Previously the maximum donation to any one donee was limited to $4,000. The overall maximum amount of deductions that a company can claim remains the same. It is the greater of:

- $1,000; or
- 5 percent of the company’s assessable income.

These amendments apply from the income year commencing 1 April 1990.

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**SECTION 188A $10,000 LOSS LIMITATION REPEALED**

Sec 12, Income Tax Amendment Act (No. 3) 1990

Section 188A limited the losses from rental activities that could be offset against other income to $10,000, where that rental activity was not the main business activity of the taxpayer.

The $10,000 loss limitation provisions have been removed for all losses incurred in the 1990/91 and all future income years. Losses incurred and available from past years remain subject to the section 188A provisions, i.e., a maximum of $10,000 of those losses carried forward may be offset in each year, in addition to any current year losses.

Section 12 of the Income Tax Amendment Act (No. 3) 1990 amended section 188A by inserting an extra proviso to subsection (7) and (7A).

An example is set out overleaf.
EXAMPLE:

An accountant acquires a rental property on 1 April 1989

<table>
<thead>
<tr>
<th>Year</th>
<th>Income</th>
<th>Rental Loss</th>
<th>Other Income</th>
<th>Deductible Loss</th>
<th>Taxable Income</th>
<th>Limited Loss carried f/d</th>
</tr>
</thead>
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<tr>
<td>1989/90</td>
<td>$30,000</td>
<td>$70,000</td>
<td>$10,000</td>
<td>$60,000</td>
<td>$20,000</td>
<td></td>
</tr>
<tr>
<td>1990/91</td>
<td>$25,000</td>
<td>$75,000</td>
<td>$35,000</td>
<td>$40,000</td>
<td>$10,000</td>
<td></td>
</tr>
<tr>
<td>1991/92</td>
<td>$20,000</td>
<td>$75,000</td>
<td>$30,000</td>
<td>$45,000</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>1992/93</td>
<td>$15,000</td>
<td>$80,000</td>
<td>$15,000</td>
<td>$65,000</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

MAORI AUTHORITY INCOME

Sec 13, Income Tax Amendment Act (No. 3) 1990

Income distributed by a Maori Authority with 20 or more beneficiaries will not be taxable in the hands of the Authority for 1990-91 and future income years. The First Schedule to the Act is amended so that it applies only to undistributed income.

Threshold Increase for PAYE and SSCWT Twice Monthly Payments

Sec 23, Income Tax Amendment Act (No. 3) 1990

The threshold for twice monthly payment to Inland Revenue of PAYE and Specified Superannuation Contribution Withholding Tax (SSCWT) deductions was increased in the 1990 Budget from $50,000 to $100,000 per annum.

The increased threshold will apply to all PAYE and SSCWT deductions required to be made on or after 1 July 1991.

The threshold will continue to be calculated on the basis of the previous year’s deductions of PAYE and SSCWT, and without regard to any reduction of that figure by the payment of Family Support Tax Credits to employees.

The dates by which payments to the Commissioner are required to be made, and the payment periods applicable to twice monthly payments remain unchanged.
INCOME TAX PAYMENT AND PROVISIONAL TAX CHANGES

Sec 24 - 31, Income Tax Amendment Act (No. 3) 1990

A number of changes have been made to the legislation covering the payment of income tax and provisional tax.

From the 1991/92 income year the terminal tax due date is being moved forward to 20 November for all individuals who do not have to pay provisional tax. (For odd balance dates, payment will be due in the eighth month after balance date.) This means that the income tax payable by such individuals for the income year ending 31 March 1992, which would previously have been payable on 7 February 1993, will be due on 20 November 1992.

The threshold for determining who is a provisional taxpayer has also been raised substantially. From the 1991/92 income year only taxpayers with residual income tax of greater than $2,500 will be provisional taxpayers. Taxpayers will only have to pay 1992 provisional tax in the 1991/92 income year if their previous year’s residual income tax was greater than $2,500.

Residual income tax is the tax (including GRI Surcharge) liability remaining after the deduction of all tax credits, source deductions of PAYE and resident withholding tax, but before the deduction of provisional tax payments.

The change to a threshold of $2,500 of residual income tax is expected to remove 230,000 taxpayers from the provisional tax regime.

All other provisional tax thresholds are also changing from provisional income amounts to equivalent residual income tax amounts. From the 1991/92 income year the compulsory estimation provisions will apply to taxpayers with residual income tax, or expected residual income tax, of greater than $300,000, rather than $1,000,000 of provisional income. Natural persons not making an estimate will pay or receive use of money interest if their residual income tax is $30,000, rather than if their provisional income is $100,000.

The only provisional tax change which applies immediately relates to all estimates made after 24 July. Such estimates will be required to be fair and reasonable estimates based on details available to the taxpayer at the time the estimate is made.

These changes in the Income Tax Amendment Act (No. 3) 1990 are summarised on a clause by clause basis in Appendix D to this TIB.

RETIREEMENT TAX RATES

Sec 33, Income Tax Amendment Act (No. 3) 1990

The rates of retirement tax for the next 30 years, as set out in the 20th Schedule to the Income Tax Act, are amended. The rate of retirement tax for the 1990/91 and 1991/92 income years is 7.5 cents. This amendment will apply from 8 August 1990.

CONSEQUENTIAL AMENDMENT TO ACCIDENT COMPENSATION ACT

Sec 34, Income Tax Amendment Act (No. 3) 1990

To make sure the due dates for Accident Compensation self-employed levies remain consistent with the terminal tax due dates, a consequential amendment has been made to the Accident Compensation Act 1982. The due date for self-employed levies is now set by reference to the day on which terminal tax is due under section 388 or 395 of the Income Tax Act.

This amendment will not have any effect on the AC levy due date for most taxpayers. Only those self-employed taxpayers who are not making provisional tax payments in the 1991/92 income year, because their previous or current year’s residual income tax was less than $2,500, will have their AC levy due date brought forward to the eighth month after balance date.
The consequential amendment to the Accident Compensation Act 1982 was made by section 34 of the Income Tax Amendment Act (No. 3) 1990. This section repealed and replaced subsection (1) of section 44 of the Accident Compensation Act, which defines the term “due date” for the purposes of that section.

The new subsection makes the due date for the AC Levy calculated on a statement of earnings the same day as the due date for income tax (due under section 388 or 395 of the Income Tax Act) on those earnings.

GST AMENDMENT ACT (NO. 2) 1990

ALIGNING OF GST TAXABLE PERIODS WITH INCOME TAX BALANCE DATES
Sec 2, 3 and 8, GST Amendment Act (No. 2) 1990

The Tax Simplification Consultative Committee recommended that registered persons be allowed to align their GST return period with their income tax balance dates.

Presently the legislation provides the Commissioner with the discretion to approve a change in the last day of a registered person’s two month taxable period. This discretion will be used to allow registered persons whose income tax balance date is at the end of a month, or 7 days either side of the end of the month, to align their income tax and GST returns.

For those registered persons who account for GST on a 6 monthly basis, the present legislation does not allow the Commissioner to change the last day of a 6 monthly period to the last day of another month. In order to enable these registered persons to align their taxable periods with their income tax balance date, the GST Act has to be amended. Again, only those registered persons whose balance dates for income tax purposes are on the last day of a month, or seven days either side of the end of a month, will be able to take advantage of the amendment.

This new policy will apply from 1 September 1990.

CHANGE OF DUE DATE FOR PAYMENT OF GST
Sec 4 - 6, GST Amendment Act (No. 2) 1990

All references to the due date for filing returns and special returns, and payment of GST, are amended from the first day of the second month following the end of the registered person’s taxable period to the last working day of the month following the end of the taxable period.

This change applies to taxable periods ending on or after 31 January 1991. For example, the first payment under the new rules will be for taxable periods ending on 31 January 1991. This payment will be due on the last working day in February, which is the 28th.
GST THRESHOLD LEVELS

PAYMENTS BASIS THRESHOLD
Sec 6, GST Amendment Act (No. 2) 1990

Section 19 of the principal Act has been amended to increase the threshold amount of taxable supplies below which a person can adopt the payments basis of accounting, from $500,000 to $1,000,000.

This amendment applies to applications made on or after 1 October 1990.

INVOICE THRESHOLDS
Sec 7, GST Amendment Act (No. 2) 1990

Section 24(4) of the principal Act has been amended to increase the threshold amount of taxable supplies below which a simple tax invoice can be issued, from $100 to $200.

Section 24(5) of the principal Act has been amended to increase the threshold amount of taxable supplies below which a tax invoice does not have to be issued, from $20 to $50.

These amendments apply to taxable supplies made on or after 1 October 1990.

REGISTRATION THRESHOLD
Sec 9 of the GST Amendment Act (No. 2) 1990

Section 51 of the principal Act is amended to increase the threshold amount of taxable supplies above which a person must register for GST, from $24,000 to $30,000.

Registered persons with annual turnover presently between $24,000 and $30,000 should consider carefully whether they should deregister. Deregistration could render them liable for GST on all goods and services forming part of the assets of the business at cessation of registration.

This amendment applies to persons becoming liable to be registered in terms of section 51(1) of the principal Act on or after 1 October 1990.

LAND TAX ABOLITION ACT 1990

This Act halves the rate of land tax to 0.5 cents in the dollar for land valued on 31 March 1991 and abolishes land tax from 31 March 1992.

Full payment will still be required for the current land tax year. Taxpayers should make payment on 7 October 1990 of the last half of the tax due on land valued on 31 March 1990.

For land valued at 31 March 1991, when the rate of land tax is halved, payment is required in only 1 instalment - on 7 May 1991.

The Land Tax Act 1976 is repealed on 31 March 1992, but still applies to tax due and payable prior to that date, so the repeal does not in any way affect the taxpayer's responsibilities or rights, or the Commissioner’s powers.

A detailed discussion of the sections of the Act forms Appendix E to this TIB.
The major issues in the Taxation Reform Bill (No 2) 1990, as introduced to Parliament, were:

* A new hybrid accounting basis for GST which will allow registered persons to account for output tax on an invoice basis and input tax on a payments basis. The hybrid system will be available for any return period starting on or after 1 January 1991. See Appendix F for more information on this subject.

* The payment dates for Resident and Non-Resident Withholding Tax will be moved to the 20th of the relevant month. This will apply from 1 July 1992.

* From 1 April 1992, any employer who, in the previous year, made gross PAYE and SSCW deductions of less than $100,000, may elect to furnish Fringe Benefit returns and pay Fringe Benefit Tax on an annual basis. Employers choosing this option will be charged an interest factor to reflect the deferral of payment of FBT.

* The current FBT exemption of $50 per employee per quarter will be increased to $75 per quarter from 1 April 1992.

* The Taxation Review Authority will be able to make orders for payment of costs against any person appearing before the Authority.

* Return filing requirements and payment dates under both the Imputation and Foreign Dividend Withholding Payment regimes will change.

The Bill also contains a number of minor measures relating to imputation, the Controlled Foreign Companies regime, accruals, the trust regime and minor amendments to some definitions.

The following items were announced by the Government on Budget night. As yet, there is no legislation for any of these items. They were:

* Administration of the Family Support and Guaranteed Minimum Family Income schemes is to be transferred from Inland Revenue to Social Welfare from 1 April 1991.

* From 1 July 1992, a new Child Support Agency will operate within Inland Revenue. This Agency will be responsible for assessing and collecting child support payments from non-custodial parents and passing on some or all of the money collected to the parent who does have custody of the child/ren.

* A new provisional tax regime which will include changed payment dates for provisional tax, use of money interest to be charged/paid from the first instalment date and a changed terminal tax payment date.
LATE IR5 RETURNS

Inland Revenue issued a Press release in July 1990, aimed at people who had not yet filed their 1990 IR 5 returns. Following is an outline of its contents.

Inland Revenue is urging taxpayers who missed the June 7 deadline to work on getting their returns in as soon as possible.

The Department has received 741,690 IR 5 returns, out of an expected 1.4 million for the year. 627,000 returns had been filed by this time last year.

Although more returns have been received so far, more of them came in right on the deadline this year. Taxpayer Services Director Martin Scott said that this may have been due to the new requirements of the Interest PAYE tax.

“Many taxpayers are unsure of their responsibilities when it comes to Interest PAYE, and a lot of this year’s enquiries have been about this tax,” he said. “For this and other reasons, there are still another 658,310 IR 5s to come in. We’re not going to start imposing penalties yet, but want to encourage people to speed up their returns.”

Martin Scott said that Inland Revenue was concerned that many people weren’t sure which return form to use, or even if they had to file a return.

“We’ve produced a one-page explanation of who must file a return. It’s called “Do you need to file a return?” and is available on counter stands at our all district offices.”

INCOME TAX (WITHHOLDING PAYMENTS) REGULATIONS 1979 - AIRCRAFT AND SHIPPING OPERATORS

Inland Revenue has been asked to confirm its policy on the application of the Income Tax (Withholding Payments) Regulations 1979 in relation to payments made to non-resident aircraft and shipping operators.

We have considered the matter and concluded that, whilst as a matter of law the withholding payments regulations will apply to payments made to these classes of taxpayer, we will not be seeking to apply the regulations to these payments.

A brief analysis of the regulations and the appropriate provisions of the Income Tax Act as they relate to non-resident aircraft operators and shippers follows:

Regulation 4 of the Income Tax (Withholding Payments) Regulations 1979 states “(1) Subject to the provisions of these regulations, all payments of the classes specified in the schedule to these regulations are hereby declared to be withholding payments for the purposes of part XI of the Act”.

The focus of the regulations is therefore on the nature and type of payment made and not on the type of taxpayer in receipt of that payment.

A non-resident contractor is defined in the regulations as being “...any person...who is not deemed to be resident in New Zealand within the meaning of part IV of the Act and who, under a contract...or an agreement or arrangement undertakes...any contract activity”.

The definition of “contract activity” has recently been amended to broaden the scope of the regulations as they apply to non-resident contractors. (A detailed discussion of the amendment was appended to T.I.B. No. 11 issued June 1990) The definition of contract activity now includes “The performing or rendering of any work or contract service in New Zealand, whether or not that work or contract service is carried on or carried out in connection with, or in relation to, any contract project.”

Whether or not the withholding payments regulations apply to payments made to non-resident aircraft and shipping operators depends on whether or not their activities carried out in New Zealand constitute the performing or rendering of any work or contract service.

Inland Revenue believes that the withholding payments regulations would apply to payments made to non-resident aircraft and shipping operators for their
Depreciation increase for Supermarket Trolleys

Background

Currently the Commissioner allows a depreciation rate of 10 per cent diminishing value on supermarket trolleys, which is the general rate for plant and machinery.

It has now been established that this rate is not high enough, because of the wear and tear on supermarket trolleys.

Ruling

As from [and including] the income year starting on 1 April 1990, the rate of depreciation applicable to supermarket trolleys will be 16 2/3 per cent DV.

It should be noted that the loss of trolleys through theft is loss of capital, and is non-deductible in terms of section 106(1)(a) of the Income Tax Act 1976.

Reference: H.O. 10.D.3.6
DUE DATES REMINDER

September

1. GST Return and payment for period ended 31 July 1990 due.

5. PAYE Deductions for last 16 days of August 1990 due - “Large” employers.

7. First instalment of 1991 Provisional Tax due for taxpayers with May balance dates.

Second instalment of 1991 Provisional Tax due for taxpayers with January balance dates.

Third instalment of 1990 Provisional Tax due for taxpayers with September balance dates.

1989 Terminal Tax due for taxpayers with October balance dates.


Dividend PAYE deducted during August 1990 due.

Non-Resident Withholding Tax deducted during August 1990 due.

20. PAYE Deductions for first 15 days of September 1990 due - “Large” employers.

PAYE Deductions for August 1990 due - “Small” employers.

October

1. GST Return and payment for period ended 31 August 1990 due.

5. PAYE Deductions for last 15 days of September 1990 due - “Large” employers.

7. First instalment of 1991 Provisional Tax due for taxpayers with June balance dates.

Second instalment of 1991 Provisional Tax due for taxpayers with February balance dates.

Third instalment of 1991 Provisional Tax due for taxpayers with October balance dates.

1989 Terminal Tax due for taxpayers with November balance dates.

Second instalment of 1990 Land Tax due.


Interest PAYE deducted 1 April 1990 to 30 September 1990 due for six-monthly payers.

Dividend PAYE deducted during September 1990 due.

Non-Resident Withholding Tax deducted during September 1990 due.

20. PAYE Deductions for first 15 days of October 1990 due - “Large” employers.

PAYE Deductions for September 1990 due - “Small” employers.

FBT return and payment for quarter ended 30 September 1990 due.