



Contacting Us

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Spring

2014

Tax Titbits

No change to 2014/15 mileage rates

The motor vehicle mileage rate is reviewed every year and the rate will remain at 77 cents a kilometre for both petrol and diesel fuel vehicles, but not motorcycles, for payments to employees, and self-employed up to 5000km pa.

You can choose to use the actual costs rather than the mileage rate however you must keep records to support any expenditure you claim.

The IRD's Operational Statement 09/01 explains how the rate is set. You can read it at www.ird.govt.nz/technical-tax/op-statements

Paying resident withholding tax on dividends and interest

We often see payments for resident withholding tax (RWT) on dividends and interest being paid into the wrong account type. This may delay the credit being applied to your account, potentially causing incorrect interest and late payment penalties, or a refund you have may be offset against the incorrect debt. If your payment was made in full and on time, any incorrect charges will be reversed when the payment is credited to the right account.

The following table shows what account type your payment needs to go to depending on the RWT deducted.

Table with 3 columns: If you file ..., to deduct RWT for ..., the payments go to account type ...

FIF deemed rate of return set for 2013-14

The deemed rate of return for taxing foreign investment fund (FIF) interests has been set at 7.99% for the 2013-14 income year, up from 6.91% for the previous income year.

FBT rate for low-interest loans

On 1 October 2014, the prescribed rate for calculating FBT on low-interest employment-related loans increased from 6.13% to 6.70%.

Interesting Case Law

Director transacting with the company should have obtained an independent share valuation

The Companies Act allows the liquidator of a company to recover from certain persons, including directors, who have transacted with the company and where the company has received inadequate consideration (or given excessive consideration) (s 298). In Jeffreys v Morgenstern [2014] NZHC 308 although the Court was satisfied that the amount paid by the company to purchase shares in a company held by its director was excessive, the liquidators had not provided a reliable means of determining by how much and the case for recovery under s 298 had therefore not been made out. The director was also found to have been in breach of his duties to act in good faith in the best interests of the company (s 131), reckless trading (s 135) and to act with care, diligence and skill (s 137). The Court, using its powers at s 301, ordered the director to make good the loss suffered to the company of \$3.5 million.

An expensive lesson!

Expat Landlords 1 : IRD 0

A high court decision overturning a TRA ruling on tax residency is pleasing to see for expats with property investments in New Zealand.

Previously, the IRD had won a case where a New Zealander living and working overseas for more than 10 years was tax resident in New Zealand, and had taken an unacceptable tax position by claiming that he was not, as the ownership of a New Zealand investment property was considered by the IRD to be a sufficiently strong tie to New Zealand to establish his tax residence under New Zealand's residence rules. This was based on their assertion that this was an available dwelling for the taxpayer to live in, in this case the rental property was close to where his ex-wife and children lived. This was despite the fact that the taxpayer had been living outside New Zealand for a significant period and had never lived in the investment property.

The High Court concluded otherwise, they focused on the use of the investment property and his intentions in relation to that property, finding that as he had never lived there and had no intention to do so, it could not be considered his home in New Zealand.

Although the IRD may appeal this decision, this is good news for Kiwis who shift overseas, owing rental properties, as long as they have never lived in those properties, and have no intention of living in those properties should they return to NZ, and don't live in those properties if they do return to NZ.

## More Tax Titbits

### Revised rate for small-value crossborder loans

From 1 July 2014 the IRD's indicative arm's length rate for **transfer pricing** purposes will be 200 basis points (2%) over the relevant base indicator. This rate applies where no market rate is available for a debt instrument with similar terms and risk characteristics.

This only applies to cross-border associated party loans of less than NZ\$10 million. This is to further reduce taxpayers compliance costs. IRD next review will be in June 2015.

### Accommodation allowances

In a special report, Inland Revenue have confirmed that refunds will be available to taxpayers who treated accommodation in connection with capital projects and secondments as taxable provided that:

- The accommodation was provided (or expenditure incurred) from 1 January 2011; and
- The employer did not take a tax position before 6 December 2012 that the accommodation was taxable.

There are special rules that apply, contact us if this opportunity potentially applies to you.

### Black hole expenditure

The following amendments address the tax treatment of certain items of "black hole" (forever non-deductible) expenditure:

- Immediate tax deductions are allowed for property, such as non-logged, withdrawn, failed, lapsed or surrendered resource consents, patents and plant variety rights. A claw-back rule will apply in the case of subsequent use or sale of property for which a deduction has been allowed.
- Depreciation for certain fixed-life resource consents is allowed.
- A deduction is allowed for all direct costs associated with paying a dividend, holding an annual general meeting, and for annual listing fees to maintain registration on a recognised stock exchange.

### Declaring insurance payments

If you receive any insurance payments, they may affect the amount of tax you pay.



If you're a business or rental property owner, you may need to declare some insurance payments in your income tax and GST returns. These could affect the amount of tax you pay. For example, the following insurance payments are taxable:

- loss of profits
- loss of rents
- reimbursement of business expenses
- destroyed or depreciated assets.

Due to the large numbers of businesses receiving insurance settlement payments in Canterbury, the IRD is "working with the insurance industry to help businesses and rental property owners get it right".

Some common mistakes might be not declaring insurance payments as income, not accounting for GST or not returning depreciation recovered when the payment is for a depreciable asset.

To avoid errors, you should keep all records relating to insurance payments for your business or rental property or ask us for help with calculating your correct tax obligations.

You can find out more about tax and insurance payments at [www.ird.govt.nz](http://www.ird.govt.nz) (search keywords: insurance and depreciation).

### Changes to tax payments

From 1 October 2014, you'll only be able to make cash or eftpos payments at Westpac counters. Westpac will no longer accept cheque payments, forms or returns.

If you **post** any payments after this date they must be **received on or before due date to avoid late payment penalties and interest.**

For more information about the changes please go to [www.ird.govt.nz](http://www.ird.govt.nz) (search keywords: payment changes)

### New phone scam

The IRD are warning taxpayers of a very aggressive phone scam.

Scammers are targeting taxpayers for money and threatening actions such as deportation and prison if they don't pay. The caller ID that appears when the scammer calls is the same number as the IRD's Customer Services number, 0800 227 774.

Read the IRD's media release for full details of the current scam. You can read it at [www.ird.govt.nz](http://www.ird.govt.nz) (search keywords: aggressive phone scam).

### New GETS website - register now

The **Government Electronic Tendering Service** (GETS) website has been updated to make it smarter and easier for businesses to use. The new site went live on 28 July, even if you were registered on the previous GETS system please re-register for the new site.

It's important to register and select categories for notifications on the new site because existing GETS tender notifications from the previous site have not been transferred. Your old GETS log in and password will not work on the new GETS website, but it's straightforward to register again with a new log in. Create your supplier account, then choose the categories and/or regions for the GETS tender information you wish to receive.

It's worth registering even if you've never done so before, you never know when a Government business opportunity may be offered that could be additional business in an area you'd previously not considered, it's easy to do - do it now!

### Boarding service providers

The weekly standard cost for one to two boarders has increased from \$250 to \$254 each.

The weekly standard cost for the third and subsequent number of boarders has increased from \$204 to \$208 each.

### Logicians' Lines

#### Word you may or may not know:

Castration: The act of buying a house, which renders the subject financially impotent for an indefinite period.

Sarchasm: The gulf between the author of sarcastic wit and the person who doesn't get it.

Reintarnation: Coming back to life as a hillbilly.

Bozone: The substance surrounding politicians that stops bright ideas from penetrating.

Intoxication: Euphoria at getting a tax refund, which lasts until you realise it was your money to start with.

