Inland Revenue
Te Tari Taake

COVID-19 – Your questions answered

As at 23rd April 2020

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Inland Revenue
Te Tari Taake

COVID-19 – Inland Revenue Policy Initiatives

[announced 17th March 2020]

Inland Revenue Policy Initiatives

- **The COVID-19 Response (Taxation and Social Assistance Urgent Measures) Bill** was passed on 27th March 2020, and enacted the following measures:
  - Reintroduction of depreciation on commercial buildings;
  - Increase in the provisional tax threshold;
  - Up-front deduction of low value assets threshold increase;
  - Research & Development Tax Credit refundability;
  - Use of Money Interest relief;
  - Information sharing;
  - In Work Tax Credit eligibility criteria;
  - Working for families tax credit entitlement for emergency benefit recipients;
  - GST on COVID-19 related payments (related to the wage & leave subsidies administered by MSD)
  - Increase in the winter energy payment

Depreciation on Commercial Buildings

- Reintroduced from 1 April 2020
- Does not apply to residential buildings
- Applicable rates:
  2% for the diminishing value method
  1.5% for the straight line method

Depreciation: Why are deductions being restored?

- The Bill reintroduces depreciation deductions for non-residential buildings.
- International studies indicate that commercial and industrial buildings do depreciate.
- Restoring depreciation deductions will help support businesses with cashflow in the near-term and assist with the broader economic recovery by encouraging business investment in new and existing buildings.
- The applicable depreciation rates introduced are 2% DV and 1.5% SL.

- Find out more on our website: Depreciation & low value assets

Depreciation: Common questions

- **Why are deductions not available for residential buildings?**
  - Research shows these buildings have a slower rate of economic depreciation than other buildings.

- **Can I claim depreciation deductions for my AirB&B property?**
  - The definition of residential buildings includes dwellings and buildings used for short-term accommodation (such as AirB&B) with less than 4 individual units.
  - Houses and rooms used as AirB&B properties will therefore be “residential buildings” and will not be entitled to depreciation deductions. These buildings are not impacted by the depreciation changes as part of the Bill.
  - If there are 4 or more separate units within the same property and the property is used for short term accommodation such as AirB&B, it can be depreciated.

Depreciation example: Commercial investment property

- High Street Hotel Limited owns several stand-alone motel buildings which have a tax book value of $3m.
- Under the current tax law, these motel buildings are not depreciated for tax purposes.
- From 2020/2021, High Street Hotel will be able to depreciate the motel buildings.
- The applicable depreciation rate is 2% (diminishing value).
- High Street Hotel will therefore be able to claim a deduction of $60,000 in the 2020/2021 year.

Depreciation example: Residential investment property

- Ivy Mundell owns a number of residential rental properties around Auckland that are all tenanted.
- Under the current law these buildings are not depreciated for tax.
- The tax depreciation changes introduced as part of the COVID-19 relief measures do not apply to residential buildings
- Therefore Ivy will still **not** be able to depreciate the rental properties in the 2020/2021 year.

Depreciation example: Commercial business premises

- Metal Works Ltd manufactures machine parts and owns a factory building and distribution warehouse.
- The factory has a tax book value of $4m and the warehouse has a tax book value of $2m.
- As these are both commercial/industrial buildings, from 2020/2021 Metal Works Ltd can depreciate these buildings at a rate of 2% diminishing value (or 1.5% straight line).
- In 2020/2021, Metal Works Ltd is entitled to a deduction for tax depreciation of $120,000 based on 2% diminishing value rate ($80,000 + $40,000).

Increased Provisional Tax Threshold

- Increase in the provisional tax threshold from RIT of $2,500 to RIT of $5,000

Effective for the 2020/21 tax year

Increase in the provisional tax threshold

- The Bill increases the provisional tax threshold from residual income tax of $2,500 to $5,000 from the 2020/2021 tax year.
- As a result, returns filed for the 2020 tax year will only generate a provisional tax assessment if the RIT is over $5,000.
- Increasing the threshold for having to pay provisional tax from $2,500 to $5,000 allows more small taxpayers to delay paying their taxes to the end of the year.
- This means they have until 7 February, following the year they file, to pay their tax bill, instead of having to pay in instalments throughout the year.
- This lowers compliance costs for smaller taxpayers and allows them to retain cash for longer.
- Find out more on our website: Provisional tax

Provisional tax: Common questions

- **Is this a permanent change?**
  - Yes. While this change is being done now in response to COVID-19 it is intended to be a permanent change.

- **How many taxpayers will be taken out of provisional tax from this measure?**
  - This reduces the number of taxpayers who have to pay provisional tax by approximately 95,000. This will give those taxpayers cash to use within their business during the year.

Provisional tax: Common questions

- **Won't this measure just increase debt levels at the end of the year?**
  - The increase in the provisional tax threshold to $5,000 removes compliance costs for smaller businesses and frees up cashflow during the year.
  - Those taxpayers who want the convenience of paying during the year they can always choose to make voluntary payments to Inland Revenue or put the money aside in a bank account.

- **When will this take effect?**
  - The reduced threshold will take effect from the 2020-21 income year which for most taxpayers will mean 1 April 2020.

Low Value Assets

- Threshold temporarily increases from $500 to $5,000
  Effective from 17 March 2020 – 16 March 2021

- Threshold permanently increases to $1,000
  Effective from 17 March 2021

Threshold for expensing low-value assets

- Businesses can now deduct the full cost of more low-value assets in the year they purchased them, rather than having to spread the cost over the life of the asset.
- Taxpayers were previously able to claim an immediate deduction for the purchase of assets that cost less than $500.
- This threshold has been increased, effective from 17 March 2020, to allow the immediate expensing of assets that cost up to $5,000.
- This will reduce compliance costs for businesses and, as it is a temporary measure, it will incentivise them to bring forward investments and encourage spending.
- This increase is temporary and will only apply until 16 March 2021. After this date the low-value asset threshold will increase permanently, but only to $1,000.
- Find out more on our website: Depreciation & low value assets

Low value assets: Common questions

- **Why is the increase temporary?**
- Increasing the threshold to $5,000 from 17 March 2020 until 16 March 2021 is intended to encourage businesses to continue investing in their businesses throughout the period of the COVID-19 pandemic.
- The threshold is still being permanently increased from $500 to $1,000 from 17 March 2021 onwards.
- This will encourage further investment by businesses as the economy begins to recover from COVID-19.

Research & Development Tax Credit

- Refundability of the R&D tax credit has been brought forward to the 2019/20 tax year

Research & Development tax credits

- The application date of broader refundability for the R&D tax credit has been brought forward by one year, to the 2019–20 income year, to help businesses retain their R&D capability during the COVID-19 outbreak.
- The R&D tax credit currently only has limited refundability rules, which may not provide sufficient support to loss-making businesses or businesses who do not pay enough income tax to fully utilise their R&D tax credits.
- Broader refundability rules have been developed and will apply from year 2 of the regime (the 2020–21 income year); however, these rules will not apply in time to benefit R&D performers struggling with the effects of COVID-19.
- Bringing the application date of the year 2 refundability rules forward to year 1 (2019–20 income year) would provide more businesses with access to R&D tax credit refunds sooner.

R&DTC: Common questions

- **If the new rules are more generous, why didn't you do this in the first place?**
  - The R&D Tax Incentive was developed under tight timeframes. The Government committed to reviewing the refundability rules so that broader refundability would be available from year 2 of the incentive (the 2020-21 income year).
  - To provide businesses performing R&D with cash now, when they need it the most, and to encourage R&D activity and innovation at a difficult economic tie, these new broader rules will apply a year early.

- **Can businesses still access the old limited refundability rules in year 1?**
  - Yes, they can.
  - The broader refundability rules will apply by default, but any business who would prefer to apply the old year 1 limited refundability rules will be able to do so. Businesses can signal this preference when they file their R&D claims with Inland Revenue.

R&DTC: Common questions

- **How much support will this provide businesses?**
  - We're expecting this measure to provide up to $70 million of additional cash support to R&D performing businesses.
  - By making the broader refundability rules available early, we're helping to ensure businesses have the funds they need to keep New Zealanders in their jobs and to continue undertaking R&D activities. These businesses would have had access to this cash in year 2 of this scheme, but making this amendment provides them with this vital support a year earlier.

- **The Government has already announced business support measures – why are R&D performers getting extra support?**
  - For many businesses, R&D activities are likely to be scaled back or reduced when funds are tight which means less innovation. This, in turn, hinders our economy's ability to recover once the global situation stabilises. That's why the Government has decided to act quickly and provide extra support to R&D performers now.

Information Sharing

- Amends Inland Revenue's ability to share information with other Government Departments
- Assists the efficient and effective delivery of the Governments COVID-19 response

Information Sharing

- The Bill amends the rules governing Inland Revenue's ability to share information with other government departments.
- The Bill allows Inland Revenue to share information with other government departments to assist those agencies in their response to the COVID-19 outbreak.
- This allows information to be supplied to assist the efficient and effective delivery of the Government's COVID-19 response.

Information Sharing: Common questions

- **How will information sharing help a struggling business or someone who has lost their job?**
  - Many government departments are working quickly to provide support to businesses and individuals struggling financially as a result of COVID-19. Inland Revenue has a lot of relevant information to enable government agencies to target those who need assistance the most and deliver the necessary support quickly. Allowing Inland Revenue the ability to share certain information will help speed up and target government assistance.

- **Why can't Inland Revenue use existing legislation to share information? Why do you need more legislation?**
  - The existing legislation enables information to be shared for defined purposes, which may not include responses to the COVID-19 outbreak. Also, Inland Revenue may be required to share information with agencies where we do not have any existing agreements.

Information Sharing: Common questions

- **Will the information be kept safe?**
  - Safeguards will be put in place to ensure the information is kept secure.
  - In considering whether to share information with other government agencies, the Commissioner of Inland Revenue has to consider the security of the information prior to it being disclosed.
  - Also, anyone receiving taxpayer information will be required to maintain the same confidentiality requirements imposed on Inland Revenue staff.

- **How much information will be shared with the receiving agency? Will they be able to use the information for other purposes?**
  - Only sufficient information will be shared to enable the other agency to administer the relevant COVID-19 response initiative. Information received by the other agency will not be able to be used for other non-COVID-19 initiatives.

Use of Money Interest Remission

- Inland Revenue can remit interest on late payment if the customers ability to make payment was significantly adversely affected by the COVID-19 outbreak

Effective for payments due on or after 14 February 2020

Use-of-money interest remission

- The Commissioner already has a number of financial relief and remission provisions of the Tax Administration Act 1994 (TAA). The Government has also introduced a new section 183ABAB into the TAA 1994 giving the Commissioner the ability to remit use of money interest (UOMI) charged if the taxpayer's ability to pay tax on time has been significantly adversely affected by the COVID-19 outbreak.
- This new provision would include both when a taxpayer is physically unable to make a tax payment on time and also when a taxpayer is financially unable to make a tax payment on time because of the economic effects of the COVID-19 outbreak. That relief is available once the core tax has been paid in full. This discretion applies to tax payments due on or after 14 February 2020. The Commissioner's ability to remit interest under s 183ABAB will apply until 25 March 2022.
- Find out more on our website: Use of Money Interest

UOMI remission: Eligibility

- To be eligible for remittance of penalties and UOMI, customers must meet the following criteria:
  - They have tax that is due on or after 14 February 2020
  - Their ability to pay by the due date, either physically or financially, has been significantly affected by COVID-19
  - They will be expected to contact the Commissioner as soon as practicable to request relief and will also be required to pay the outstanding tax as soon as practicable
- It is the Commissioner's view that a customer has been significantly adversely affected by COVID-19 financially where their income or revenue has reduced as a consequence of COVID-19 and, as a result of that reduction in income or revenue, is unable to pay their taxes in full and on time.

UOMI remission: Apply “as soon as practicable”

- “As soon as practicable” will be determined on the facts of each case.
- Inland Revenue considers the term means that so long as the taxpayer applies for the relief at the earliest opportunity and agrees to an arrangement that will see the outstanding tax paid at the earliest opportunity, or will be paid over the most reasonable period given the taxpayer’s specific circumstances, the test will be met.
- Those customers who require further assistance at a later date, such as having to renegotiate the terms of an arrangement, should contact Inland Revenue at the earliest opportunity after determining they will have difficulty in paying the tax as agreed. So long as the taxpayer completes an arrangement (which may have been amended at the taxpayer’s request during the period of the arrangement), the Commissioner will accept that by entering into and completing that arrangement, the test for “as soon as practicable” in respect of paying the tax will be met.

UOMI remission: Information required

- Inland Revenue will be trying to minimise the information we would ask to be provided during these unusual times. By continuing to file GST and other returns we will have a lot of the information we would normally ask to be provided. However, customers should be able to provide, if asked:
  - At least three months banks statements and credit card statement;
  - Any management accounting information;
  - A list of aged creditors and debtors.
- We will not ask for that information in every case, but the information should be available if we do ask for it. For businesses, Inland Revenue will be looking to understand the taxpayer's plan to sustain their business. We understand you might not be able to get all this information at this time given the COVID-19 lockdown. We will work with you based on what you know and are able to access at this time and will continue to do so as more information becomes available.

UOMI remission: New debt & Pre-existing debt

- For new tax debt Inland Revenue will consider:
  - Instalment arrangements
  - Instalment arrangements with a deferred payment start date
  - Partial write-off due to serious hardship & payment of the remaining tax by instalment or lump sum
  - Partial payment and write-off of the balance under maximising recovery of outstanding tax
  - Write-off due to serious hardship
- Pre-existing debt prior to COVID-19
  - Customers whose debt is also subject to an arrangement but consider they may not be continue with the current terms due to being significantly affected by COVID-19 can ask to renegotiate the instalment arrangement. Any of the above options may be appropriate and each case will be considered on its own facts. Customers are encouraged to contact Inland Revenue as soon as they believe they will have difficulty in meeting their current arrangement.
  - Customers who do not have their debt under an arrangement, should contact Inland Revenue as soon as possible to discuss what options may best suit their circumstances

UOMI remission: Filing of returns

- Inland Revenue accepts that customers will have difficulty paying all their taxes in full and on time. However, it is important that they continue to file their returns on time.
- The information in those returns will allow us to have a more complete picture of a customer's financial position when considering the various options for relief, so may reduce the amount of information we would require to consider whether or not to agree to the request for relief, and the extent of that relief.
- In addition, the information in those returns provides important information to the government – at the present time to be able to monitor the effects of COVID-19 on New Zealand's economy.

UOMI remission: Common questions

- **How will allowing Inland Revenue to remit interest for late tax payments assist those affected by COVID-19?**
  - For many taxpayers the impacts of COVID-19 may mean they are unable to pay their tax on time, either because of the financial impact of COVID-19 or because they are physically unable to make the payment. Allowing Inland Revenue to remit use of money interest ensures that these taxpayers are only required to pay their core tax debt and do not also need to worry about interest.
- **Can't Inland Revenue already remit use of money interest in certain situations?**
  - Yes. However, the existing remission rules only applied in specific situations or events, , typically due to a natural disaster. These pre-existing rules are not fit for purpose to respond to the nature of the economic shock of COVID-19 where a taxpayer may be financially unable to pay their tax on time.
- **Will taxpayers still be required to pay their core tax debt?**
  - Yes. While interest can be remitted the core tax debt must still be paid. Paying tax is an important way New Zealanders can contribute to the fight against COVID-19.

UOMI remission: Provisional taxpayers

- For provisional taxpayers, a number of different factual situations can apply which determine whether section 183ABAB can provide relief for UOMI. These factors include:
  - The due date by which the tax was due to be paid (it must be on or after 14 February 2020);
  - The balance date (this determines the due dates for provisional tax and terminal tax);
  - The provisional tax method chosen or applied for the tax year (this determines the date UOMI will be charged from);
  - When payments were made and how they were applied to amounts owing in the income tax account.
- The following scenarios are intended to provide guidance for the most common situations that Inland Revenue has identified.
- The scenarios have been drafted based on current law and may change as a result of the additional legislation changes proposed on 15th April 2020.

UOMI remission: Provisional taxpayers

- The principles in respect of how section 183ABAB will be applied apply equally to provisional tax and terminal tax obligations for the 2020 and 2021 tax years.
  - Scenarios 1 and 2 explain how section 183ABAB applies to provisional tax instalments.
  - Scenarios 3 to 8 explain how section 183ABAB applies to UOMI charged on terminal tax and how this is impacted by the method used to calculate provisional tax.
- Information is also provided in respect of provisional tax and UOMI which may be useful in considering provisional tax payment methods and UOMI consequences.
- Where further scenarios and other information are identified these will be added as and when they are identified.

UOMI remission: Provisional taxpayers

- Scenario 1 – Late paid provisional tax (due date before 14 February 2020)
- Scenario 2 – Late paid provisional tax (due date on or after 14 February 2020)
- Scenario 3 – Late paid terminal tax (due date before 14 February 2020) – Safe Harbour
- Scenario 4 – Late paid terminal tax (due date on or after 14 February 2020) – Safe Harbour
- Scenario 5 – Late paid terminal tax (due date before 14 February 2020) – Estimator
- Scenario 6 – Late paid terminal tax (due date on or after 14 February 2020) – Estimator
- Scenario 7 – Late paid terminal tax (due date before 14 February 2020) – UOMI Concession rules in section 120KBB of the TAA apply
- Scenario 8 – Late paid terminal tax (due date on or after 14 February 2020) – UOMI Concession rules in section 120KBB of the TAA apply

Scenario 1: Late paid provisional tax (due date before 14 February 2020)

- A provisional taxpayer has 3 instalments of provisional tax for the 2019 tax year and has a standard balance date of 31 March.
- These instalments are due to be paid on 28 August 2018, 15 January 2019 and 7 May 2019.
- If any of these instalments are paid late section 183ABAB will not provide any relief as none of the instalments are due on or after 14 February 2020.
- UOMI will be charged, from the day after the due date of each unpaid instalment until the tax, late payment penalties and UOMI are paid.

Scenario 2: Late paid provisional tax (due date on or after 14 February 2020)

- The same facts as for Scenario 1, but the tax year is 2020. The provisional tax instalment due dates are 28 August 2019, 15 January 2020 and 7 May 2020.

- If either or both of the first 2 instalments are paid late section 183ABAB will not provide any relief. UOMI will then be charged from the day after the due date of each of these instalments.

- If the last instalment is paid late section 183ABAB could provide relief if the late payment is due to COVID-19 as that due date is after 14 February 2020. UOMI would be charged from 8 May 2020 but could be remitted under section 183ABAB provided the late payment is due to COVID-19.

Scenario 3: Late paid terminal tax (due date before 14 February 2020) – Safe Harbour

- A provisional taxpayer has a standard balance date of 31 March, their 2019 terminal tax is due on 7 February 2020 and they met all of the criteria to be a safe harbour provisional taxpayer.
- UOMI will be charged from 8 February 2020.
- If the terminal tax is paid late section 183ABAB will not provide any relief as that due date is not on or after 14 February 2020.

Scenario 4: Late paid terminal tax (due date on or after 14 February 2020) – Safe Harbour

- The same facts as for Scenario 3, but the 2019 terminal tax is due on 7 April 2020 as the provisional taxpayer has an extension of time via a tax agent.
- UOMI will be charged from 8 April 2020.
- If the terminal tax is paid late section 183ABAB could provide relief as that due date was after 14 February 2020.

Scenario 5: Late paid terminal tax (due date before 14 February 2020) – Estimator

- A provisional taxpayer has a standard balance date of 31 March, their 2019 terminal tax is due on 7 February 2020 and they are an estimator.
- For the person to have a terminal tax liability means their Residual Income Tax (RIT) is more than their estimated provisional tax.
- Because the RIT of an estimator is spread across their provisional tax instalments UOMI could have started as early as from the day after their first instalment date.
- If the terminal tax is paid late section 183ABAB will not provide any relief as that due date is not on or after 14 February 2020.

Scenario 6: Late paid terminal tax (due date on or after 14 February 2020) – Estimator

- The same facts as for Scenario 5, with the 2019 terminal tax being due on 7 April 2020 as the provisional taxpayer has an extension of time via a tax agent.
- If the terminal tax is paid late section 183ABAB can provide relief as that due date is after 14 February 2020.
- However, the remission of UOMI is only in respect of the late paid terminal tax amount (i.e. UOMI charged from 8 April 2020 on the terminal tax amount only), not in respect of:
  - any provisional tax instalment amount that is not paid on time as the due dates for those provisional tax liabilities fall on 28 August 2018, 15 January 2019 and 7 May 2019; or
  - UOMI charged on the terminal tax up to and including 7 April 2020, because that portion of UOMI is not charged due to the late payment of the terminal tax (i.e. that portion of the UOMI is always payable whether the terminal tax was paid on the due date or late).

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Scenario 7: Late paid terminal tax (due date before 14 February 2020) – UOMI Concession rules in section 120KBB of the TAA apply

- A provisional taxpayer has a standard balance date of 31 March, their 2019 terminal tax is due on 7 February 2020 and they meet all of the criteria of the UOMI concession rules in section 120KBB.
- The UOMI concession rules apply where a person is not a safe harbour provisional taxpayer or an estimator and none of the other special UOMI apply. Under the UOMI concession rules if all provisional tax instalments are paid in full and on time UOMI will apply from the day after the last provisional tax instalment.
- The person is deemed to have their RIT apply at their last instalment date (7 May 2019 in this example) for UOMI purposes even though their terminal tax date is 7 February 2020. UOMI will be charged from 8 May 2019.
- If the terminal tax is paid late section 183ABAB will not provide any relief as their terminal tax is not due on or after 14 February 2020.

Scenario 8: Late paid terminal tax (due date on or after 14 February 2020) – UOMI Concession rules in section 120KBB of the TAA apply

- The same facts as for Scenario 7, with the 2019 terminal tax being due on 7 April 2020 as the provisional taxpayer has an extension of time via a tax agent.
- The UOMI concession rules apply where a person is not a safe harbour provisional taxpayer or an estimator and none of the other special UOMI apply. Under the UOMI concession rules if all provisional tax instalments are paid in full and on time UOMI will apply from the day after the last provisional tax instalment.
- The person is deemed to have their RIT apply at their last instalment date (7 May 2019 in this example) for UOMI purposes even though their terminal tax date is 7 April 2020. UOMI will be charged from 8 May 2019.
- If the terminal tax is paid late section 183ABAB can provide relief as that due date is after 14 February 2020.
- However, the remission of UOMI is only in respect of the late paid terminal tax amount (i.e. UOMI charged from 8 April 2020 on the terminal tax amount only), not in respect of UOMI charged up to and including 7 April 2020, because that portion of UOMI is not charged due to the late payment of the terminal tax (i.e. that portion of the UOMI is always payable whether the terminal tax is paid on the due date or late).

UOMI remission: impact when actual RIT > prov' tax threshold

- The RIT threshold before a person is a provisional taxpayer or is required to pay provisional tax increased from $2,500 to $5,000 for the 2021 and future tax years.
- This threshold determines whether a person is a provisional taxpayer in a tax year and also whether a person is required to pay provisional tax for a tax year.
- For example, if a person has RIT of $3,500 for the 2020 tax year, they will be a provisional taxpayer for that tax year. For the 2021 tax year the person will not be required to pay provisional tax because the threshold has increased to $5,000 RIT.
- When the person filed their 2021 income tax return, their RIT turns out to be $5,500. The person is a provisional taxpayer for the 2021 tax year (even though they were not required to make any 2021 provisional tax payments because in the 2020 tax year their RIT was not at least $5,000).

WfFTC ENTITLEMENT

- Entitlement extended to include emergency benefit recipients who are on a temporary visa

Working for Families Tax Credit entitlement criteria

- Previously, emergency benefit recipients with dependent children and who are on a temporary visa do not qualify for Working for Families (WFF) tax credits. This is because they do not meet the residence criteria for WFF.
- The result is a difference in the financial support that these families can access compared with other main benefit recipients with children.
- The Bill allows people on a temporary visa, who would not otherwise meet the WFF residence criteria, to qualify for WFF if they receive an emergency benefit from the Ministry of Social Development.
- This ensures that families on a temporary visa who receive an emergency benefit because of COVID-19 are able to access a comparable level of financial support to other recipients of main benefits.
- This change is administered by MSD and emergency benefits paid by MSD to families on a temporary visa will be increased by the amount of WFF tax credits they are eligible for.

Winter Energy Payment

- Administered by MSD
- Doubled for the 2020 year
- For eligible people:

  $900 for single people with no dependent children;
  $1,400 for couples and people with dependent children.

Winter Energy Payment

- The winter energy payment (WEP) is assistance paid to help eligible people meet their household heating costs during the winter months.
- The rates for the WEP have been doubled by Order in Council to $900 per year for single people with no dependent children and $1,400 per year for couples and people with dependent children.
- However, this increase in the WEP rates is intended to be temporary and apply for 2020 only.
- The Bill therefore restores the WEP rates from 2021 onwards to their current rates of $450 per year for single people with no dependent children and $700 per year for couples and people with dependent children.

In Work Tax Credit changes

- Removes the work hours requirement from the IWTC eligibility criteria

Effective from 1 July 2020

In work tax credits

- The in-work tax credit (IWTC) is an income-tested cash payment of $72.50 per week ($3,770 per year) to working families with children.
- To be eligible families must be normally working at least 20 hours a week (sole parents) or 30 hours a week (couples).
- The Bill removes the work hours eligibility requirement from the IWTC.
- This means that working families who have a reduction in working hours as a result of COVID-19 do not lose their eligibility for the IWTC.
- Find out more on our website: Support for families

IWTC: Common questions

- **Why are you removing the hours test eligibility requirement for the in-work tax credit?**
  - This extends eligibility for the in-work tax credit to all families who are not receiving a main benefit and have some level of employment income each week.
  - This is an important change as people may face a reduction of, or variable hours, in the wake of the COVID-19. Around 19,000 low-income families would benefit from this change.

- **Is this intended to be a temporary or permanent change?**
  - This is a permanent change.

- **When will this take effect?**
  - From 1 July 2020.

Eligibility for the IWTC & MFTC generally

- For IWTC and MFTC purposes an amount paid by an employer who receives the wage subsidy is still salary/wages income to the employee.

- The issue raised is whether a person receiving a subsidised salary/wage will meet the criteria of working the required hours.
  - For IWTC a person is required to normally work the required hours but
  - For MFTC they must be working the required hours.

- Note:
  - The hours requirement for eligibility for the IWTC has been removed from 1 July 2020.
  - No change is proposed to the eligibility requirements for the MFTC

IWTC: Eligibility from now until 1 July 2020

- Customers who have
  - had their hours reduced due to COVID-19 and
  - continue to receive qualifying income and
  - had an entitlement to IWTC prior to reducing hours

  can continue to receive IWTC for the period affected by COVID-19
- Customers who have had to
  - stop work due to COVID-19 and
  - are receiving a subsidised salary/wage and
  - and had an entitlement to IWTC prior to their work stopping

  can continue to receive IWTC for the period affected by COVID-19
- Customers whose hours would normally reduce at this time of the year, e.g. seasonal workers, should have their circumstances updated accordingly.
- If a customer is taking annual leave or sick leave – normal rules for IWTC criteria apply

IWTC: Eligibility from now until 1 July 2020

- Customers who
  - are in business and
  - received IWTC prior to COVID-19
  - are unable to work the required hours due to COVID-19

  <u>can</u> continue to receive IWTC for the period affected by COVID-19
- Customers who are made redundant or stop work (includes self-employed) and go onto a benefit have no further entitlement to IWTC, until they meet the criteria again.
- Customers who have stopped work,
  - met the IWTC criteria prior to COVID-19
  - don’t go on a benefit and
  - don’t receive a subsidised salary/wage,

  <u>can not</u> receive IWTC

MFTC: Eligibility when work hours reduced due to COVID-19

- Customers who have
  - had their hours reduced to below 20/30 hours due to COVID-19
  - receive qualifying income based on their reduced hours
  - had an entitlement to MFTC prior to reducing hours

  can not continue to receive MFTC for the period affected by COVID-19
- Customers who have
  - had their hours reduced to below 20/30 hours due to COVID-19
  - but continue to receive qualifying income for 20/30 hours a week and
  - had an entitlement to MFTC prior to reducing hours

  can continue to receive MFTC for the period affected by COVID-19
- Customers whose hours would normally reduce at this time of the year, eg seasonal workers, should have their circumstances updated accordingly.
- If a customer is taking annual leave or sick leave – normal rules for MFTC criteria apply

MFTC: Eligibility when work hours reduced due to COVID-19

- Customers who have had to
  - stop work due to COVID-19 and
  - are receiving the subsidised salary/wage and
  - and had an entitlement to MFTC prior to their work stopping

  <u>can</u> continue to receive MFTC for the period affected by COVID-19
- Customers who are made redundant or stop work and go onto a benefit have no further entitlement to MFTC, until they meet the criteria again.
- Customers who have stopped work,
  - met the MFTC criteria prior to COVID-19
  - don't go on a benefit and
  - don't receive a subsidised salary/wage,

  <u>can not</u> receive MFTC

Wage & Leave Subsidies

- Administered by the Ministry of Social Development

  Any calls to Inland Revenue with regards to eligibility will be referred to MSD
- Income tax obligations
- GST obligations

  Legislation change implemented
- PAYE obligations
- KiwiSaver impacts

Wage subsidy

- Wage subsidies are paid by the Ministry of Social Development (MSD) to employers, including sole traders and the self-employed upon application.

- An eligible employer should apply for the subsidy, which will be passed on to its employees, through MSD.

- If your employee's usual wages are less than the subsidy, you must pay them their usual wages. Any difference should be used for the wages of other affected staff.

- Further information on these subsidies, including the business eligibility criteria, is available on the MSD website

Leave subsidy

- Leave payments for self-isolation as a result of COVID-19 were also available to businesses, including the self-employed and contractors, who satisfy the eligibility criteria and are prevented from working.
- Further information on these subsidies and applications for a self-isolation leave subsidy on behalf of an affected employee are available on the MSD website.
- The payment does not affect any leave entitlements that are owed and is not available for those who are able to work from home during their period of self-isolation and be paid normally by their employer.
- From 3pm 27th March 2020 the Leave Subsidy Scheme has been absorbed into the Wage Subsidy Scheme, preventing applicants from accessing both entitlements at the same time for workers. As a result, the Leave Subsidy is no longer available for employers.

Wage and leave subsidies: Income tax obligations

- The receipt of the subsidy is exempt income for the employer under CX 47 of the Income Tax Act;
- The employer will not be entitled to an income tax deduction for wages paid out of the wage subsidy pursuant to section DF 1(2) of the Act.
- The amount of wages paid in excess of the wage subsidy (amounts funded by the employer) are deductible as normal.

Wage and leave subsidies: GST obligations

- The employer will not be liable for GST on the subsidy received from MSD;

- Legislation change: GST on COVID-19 related payments
  - The Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 added the COVID-19 wage subsidy and the COVID-19 leave payment to the schedule of non-taxable grants and subsidies in the Goods and Services Tax (Grants and Subsidies) Order 1992 from 24 March 2020.
  - However, the wage subsidy and leave payments have been paid out from 17 March 2020. The Bill ensures that GST does not apply to payments of the COVID-19 wage subsidy and leave payments from 17 March 2020 until the date the 2020 amendment Order came into force.

- This ensures consistent GST treatment regardless of when payments were made.

Why does GST apply to the COVID-19 related payments in the first place?

- Government grants and subsidies paid to GST-registered businesses are subject to GST under the Goods and Services Tax Act 1985. If the COVID-19 subsidy payments weren't excluded from GST, this would mean that GST-registered businesses would have to return GST on the payments they receive from the government. As a result, this would mean these GST-registered businesses would have less money from the subsidy available for supporting their staff when compared to businesses which are not registered for GST.
- The recent Order in Council (the Goods and Services Tax (Grants and Subsidies) Amendment Order 2020) added the COVID-19 wage subsidy and leave payment to the schedule of non-taxable grants and subsidies for the purposes of the Goods and Services Tax Act 1985. It did not have retrospective effect, so only applies in respect of payments made from 24 March, which is when the Order in Council came into force. The change in this bill ensures that the same exclusion from GST applies to all payments made since 17 March 2020.
- COVID-19 related subsidies will therefore not be subject to GST.

Wage and leave subsidies: Employer obligations

- Wage subsidies and self-isolation leave subsidies should be passed on to the employee by the employer and processed as part of the employee's normal wages. All deductions of PAYE, KiwiSaver, Student Loans, child support etc are made as normal.
- If the total wage (subsidy + employer funded pay) amounts to the same wages as previously, the pay and deductions on their payslip should be the same.
- Whether employers top up the subsidy with cash payments or annual leave is up to them to arrange with staff. Employees cannot be forced to use their annual leave entitlement.
- Employers should keep accurate records detailing the amount of the subsidy received and details of the employees it has been paid to, this will assist the employer if MSD request to review their records later .
- If your employee's usual wages are less than the subsidy, you must pay them their usual wages. Any difference should be used for the wages of other affected staff.

Wage and leave subsidies: Employer obligations

- Are there any tax consequences if an employer pays the 12-week wage subsidy as a single lump-sum to their employees?
  - For employers – no. As mentioned, the receipt of the subsidy is exempt income and the payment to an employee is not deductible so it doesn't make any difference if they pass it on now, or over time.
  - For employees – the intention is the subsidy amount is passed to the employee as per their normal pay cycle, otherwise yes, there are likely to be tax consequences..
- What are the tax consequences for employees?
  - Paying the 12-week subsidy to an employee as a lump sum brings up to 12 weeks of income, that would normally be earned in the next tax year, into this tax year (which ends on 31 March 2020).
  - The additional income could move them into a higher marginal tax bracket and result in them receiving a tax bill when Inland Revenue completes the automatic assessment process later this year;
  - If, as a result of receiving the additional income, their total gross income for the year exceeds $48,000 they will no longer qualify for the Independent Earner Tax Credit;
  - It may also impact their Working for Families Tax Credits, or they may receive a Student Loan bill.

Home office expenses incurred by employees

- During the COVID-19 Alert Level-4 lock down period many employees are working from home.
- In some instances, their employer may provide a special allowance to cover the costs of this, however in many cases the employee is expected to bear these additional costs.
- We have been asked whether these costs, or a proportion of the costs can be claimed as an expense against employment income.
- No – under current legislation the employment limitation prevents an employee deducting costs incurred in deriving income from employment.
- There are only very limited types of expenses that can be claimed by individuals who only earn income from employment, you can find out more on our website: Types of individual expenses

Wage and leave subsidies: Self-employed customers

- **Is the wage subsidy received by a self-employed person taxable in the year it is received, or can it be spread over the 12-week period?**

  - Many self-employed people will receive the subsidy in the 2020 tax year, but (in most cases) only 1 or 2 weeks of it relates to the 2020 tax year.

  - Inland Revenues position is that these payments qualify as 'compensation' for the purposes of section CG 5B and can therefore be returned in the income year which the income being replaced would have been derived.

  - In practical terms this means an amount received prior to 31 March 2020 can be spread if it relates to income that would have been derived after 31 March (the 2021 year).

Wage and leave subsidies: Self-employed customers

- **Is the wage subsidy received by a self-employed person subject to ACC levies?**
  - No, under section 14 of the ACC Act, the income must be derived from physical exertion before it will be liable for ACC levies.
  - To ensure the subsidy is not subject to ACC for these customers it is important to return it as '**Other Income**' in the IR3 return.
  - If it is included as part of the 'Self-Employed Income' ACC will have no way of identifying whether the amount is liable for ACC levies or not and as a result will charge the levy on the entire amount.

Wage subsidy: Standard costs for home-based childcare providers

- A childcare provider (in accordance with Education (Home-Based Care) Order 1992) who derives gross income from providing a childcare service may elect to deduct the expenditure as set out in Determination DET 09/02.
- Determination DET 09/02 advises the only two options applicable to educators providing home base childcare services are:
  - Using a standard cost household service.
  - Using actual costs supported by appropriate records.
- A childcare provider is not required to file a tax return for that income if both of these apply:
  - After deducting the amount of standard cost under DET 09/02, the customer has a loss or zero income.
  - The customer did not have any other income where tax has not been deducted at source
- Losses are not able to be claimed if using the standard cost method.

Wage subsidy: Standard costs for home-based childcare providers

- The IR413 can be used to calculate the net income under the standard cost method, the first two components of the formula are:
  - A. Gross income received for childcare
  - B. Hours (children are in your household)
- If a customer receives the wage subsidy during the period of the Covid-19 Alert Level-4 lock-down then this forms part of the ‘Gross income’ received – part A of the formula.
- However, as the actual childcare activity has ceased for the duration of the lock-down the ‘Hours’ – part B of the formula, will be NIL.
- This may result in a net income amount for the customer which needs to be included in their annual tax return.

Wage subsidy: received by a company for a shareholder-employee

- The MSD website states "If you work for the business and you are paid a wage, salary or draw an income for the work you do for the business, you can apply for the wage subsidy.", so there is a requirement that the shareholder is receiving income from the work that they do for the business. The underlying intent of the subsidy is that it is passed on, in full, to the person whose income it is intended to replace it is never contemplated that the company retain the subsidy amount.
- The tax outcome depends on how the company usually pays its shareholder/employees. This could be regular, and subject to the usual PAYE deductions, or it could be at the end of the year via a shareholders salary.
  - If regular & subject to PAYE then they should process it as normal. The receipt of the subsidy is exempt income for the company and the payment to the shareholder is not deductible, so a NIL tax outcome for the company. The 'wages' paid to the employee are taxable in the usual way.
  - If a shareholders salary is declared at the end of the year the shareholder would usually include in their IR3, and if part of the salary they receive is funded by the subsidy it is still returned as 'income' by the individual/shareholder. Same rules apply for the company, it is exempt income when received and non-deductible when paid out.
- Although a shareholder's salary generally doesn't exceed the company's taxable profit, because the subsidy is exempt and non-deductible to the company it doesn't form part of the taxable profit, therefore it must be returned by the shareholder-employee in additional to any profit allocated as a salary.

Wage subsidy example: Company with employees

- **Well Oiled Motors Ltd**
  - Kiri is a shareholder in a mechanic business, Well Oiled Motors Ltd, in which she regularly is paid a wage.
  - Kiri's business is adversely affected by COVID-19 and is eligible for the wage subsidy. She applies for and receives a $7,029.60 wage subsidy payment from MSD.
  - As Kiri is paid regular wage payments from her company, her pay is ordinarily subject to PAYE and other withholding obligations.
  - Kiri uses the wage subsidy from MSD to continue to fund her wages over the 12-week period the subsidy applies to.
  - Well Oiled Motors Ltd does not have any GST or income tax obligations in relation to the wage subsidy.
  - Well Oiled Motors Ltd processes Kiri's wages in the normal manner through its payroll system. PAYE and Kiwisaver deductions will continue to apply to the gross amount paid by MSD.

Wage subsidy example: Self-employed with employees

- Mark, Self-employed Plumber
  - Mark is a self-employed plumber with a standard balance date of 31 March.
  - He employs Mary part-time to assist with book-keeping and other general administration work that is required within the business and has a full-time apprentice.
  - Both Mary and the apprentice receive regular wages.
  - As a result of the impact of COVID-19, Mark's business is facing significant financial pressure.
  - On 27th March he applies for and receives a wage subsidy of $18,259.20 from MSD for himself, his apprentice plumber and Mary.

Wage subsidy example: Self-employed with employees

- Marks employees:
  - $7,029.60 of the wage subsidy is required to be passed on to Mark's apprentice ($585.80 per week for the 12 week period of the wage subsidy) and
  - $4,200 of the wage subsidy is required to be passed on to Mary ($350 per week for the 12 week period).
  - These amounts will be treated as ordinary PAYE earnings in the hands of Mark's employees with the relevant Kiwisaver, child support, student loan and PAYE deductions withheld.
  - This portion of the wage subsidy which relates to Mark's employees will be processed in the normal manner, regularly through its payroll system and the business will not take this portion of the subsidy into account when calculating its income tax liability.
  - Please note these amounts should not be grossed up, therefore PAYE etc is deducted from the amounts of $7,029.60 and $4,200 respectively.

Wage subsidy example: Self-employed with employees

- **Mark as a self-employed individual**:
  - The remaining $7,029.60 of the wage subsidy relates to Mark's own work in the business.
  - Mark is required to account for income tax on this portion of the wage subsidy as it relates to Mark's personal lost earnings.
  - Mark will include this portion of the wage subsidy (the $7,029.60), in addition to his regular income for the rest of the year, in his Individual income tax return (IR 3).
  - The income can be spread across two tax years:
    - As the subsidy covers a 12 week period from the date it was credited to Mark's bank account on 27th March 2020, Mark must calculate the part of the subsidy relating to the year ended 31 March 2020 and include this in his 2020 Individual income tax return - IR 3 (= $333.74 for the 4 days to 31 March 2020). The balance of the subsidy (= $6,694.86) relates to the period 1 April 2020 – 31 March 2021 and Mark will include this amount in his 2021 Individual income tax return – IR3.
  - There are no GST implications on the receipt of the entire $18,259.20 wage subsidy.

Wage subsidy example: Employees receiving standard pay

- Stef's Jet Skis Ltd
  - Stef's Jet Skis Ltd offers boat tours in Queenstown. It employs 5 full-time staff and 10 part-time staff. Its main customers are international tourists. As a result of COVID-19 it has seen a significant reduction in bookings and, with the closing of the borders, expects this to get worse over the coming months.
  - Stef's Jet Skis Ltd is eligible for the wage subsidy. When it applies for the subsidy, it receives a $75,158 lump sum payment from the Ministry of Social Development (MSD). Stef's Jet Skis Ltd is required to pass the subsidy on to its employees. It is not:
    - liable for income tax on the subsidy received as this is excluded income
    - required to account for GST on the subsidy received
    - entitled to an income tax deduction in relation to the portion of wages paid funded by the wage subsidy.
  - Stef's Jet Skis Ltd can now afford to pay its staff the equivalent of their regular wage. The subsidy is included and processed in the company's ordinary payroll with the relevant KiwiSaver, child support, student loan and PAYE deductions withheld.

Wage subsidy example: Employees receiving reduced pay

- Blue Sky Ltd
  - Blue Sky Ltd has 40 full time employees. It applied for the wage subsidy when it was first announced and received a payment from the Ministry of Social Development (MSD) of $150,000 (as per the initial cap). As Blue Sky Ltd is now eligible for a wage subsidy of $281,184, MSD has made an additional payment of $131,184 to Blue Sky Ltd. Both payments are excluded income and will not be taken into account by Blue Sky Ltd when calculating its income tax liability. As the payment is a subsidy there are no GST implications on its receipt for Blue Sky Ltd.
  - The MSD payments are made to the employer to subsidise the gross payment of wages and therefore remain subject to PAYE and other usual employee deductions. Blue Sky Ltd is only able to pay its employee 90% of their regular wage, including the wage subsidy.
  - The wage subsidy and (reduced) pay are processed by Blue Sky Ltd in the normal manner through its payroll system, and PAYE and KiwiSaver etc are deducted from the payments, withheld by the employer and passed on to Inland Revenue.
  - Please note that the wage subsidy amount should be included and returned as a gross amount in an employee's pay, not a net amount.

Wage subsidy example: Self-employed, no employees

- Self-employed dance teacher
  - Ani Kowhatu is a self-employed dance teacher and provides regular private lessons at her home, as well as tutoring a couple of dance students at a local high school. She does not employ any other dance instructors and is not registered for GST. Ani applies for and receives a $4,200 wage subsidy from MSD.
  - Ani is required to account for income tax on the wage subsidy received as it is a payment to replace loss of earnings. Ani will include the subsidy, in addition to her regular income for the rest of the year, in her Individual income tax return - IR3.
  - Please note that the tax-free treatment in respect of employers who receive the wage subsidy for their employees does not apply to self-employed people who receive the subsidy for their personal loss of income. The subsidy will only be tax free as excluded income for a self-employed person to the extent it is used by them to subsidise wages of their employees.

Wage subsidy example: Charity with employees

- Foodbank Wellington
  - Food Bank Wellington is a registered charity which operates a small second-hand shop to help generate funds for the food bank it operates. Although there are volunteers who work in the second-hand shop, it also employs three part-time staff who are university students. The charity shop is not an essential business and will be closed for at least the next four weeks, during the Level 4 lock down. Food Bank Wellington applies for and receives a wage subsidy from the Ministry of Social Development (MSD) of $12,600. Food Bank has no income tax or GST obligations in respect of the subsidy received.

  - Food Bank Wellington includes the wage subsidy from MSD in the pay of its part-time employees. With the wage subsidy it can continue to pay its employees while it is shut down. The subsidy is made as a gross payment from MSD and Food Bank Wellington withholds PAYE, KiwiSaver and student loan from the payments as it would with regular wages.

Wage and leave subsidies: KiwiSaver implications

- **Can an employee request to have their KiwiSaver contributions suspended while they are receiving the subsidy?**
  - The only way employees can stop contributions is by requesting a savings suspension.
  - They must request the savings suspension from Inland Revenue, we then notify the employer, provider and member once we have granted it.
  - There are three ways employees can apply, either online through My KiwiSaver (part of MyIR), by completing a KS 6 Form and posting it to us, or by calling us. The quickest way is through MyIR.
  - There are a few requirements:
    - They have to have been a contributing member for 12 months, unless it is a matter of financial hardship.
    - The savings suspension is for a minimum period of 3 months, unless the employer agrees.
    - The savings suspension can be granted for up to one year, but can be ended early, and another can be applied for if they would like to extend it further.
  - Find out more on our website.

Wage and leave subsidies: KiwiSaver implications

- A customer can apply for a savings suspension through MyIR:
  - Log into the **MyIR account**;
  - Select the '**KiwiSaver**' account tile;
  - Select '**Go to My KiwiSaver**' at the top left of the page;
  - Select '**Savings Suspension**' and complete the required information to submit your request.

- If a customer wants to withdraw their funds from KiwiSaver they need to speak with their scheme provider (not Inland Revenue). To find out who the scheme provider is:
  - Log into the **MyIR account**;
  - Select the '**KiwiSaver**' account tile;
  - Select '**Go to My KiwiSaver**' at the top left of the page;
  - Select '**My Scheme**' to find out who to contact to discuss your withdrawal request.

COVID-19 – Inland Revenue Policy Initiatives

[announced 15th April 2020]

Inland Revenue Policy Initiatives – 15th April 2020

- **The COVID-19 crisis has had a significant impact on small and medium-sized enterprises (SMEs).**
- In recognition of the challenges facing business, the Government has already introduced a wide range of measures to assist businesses through the crisis. These include the wage subsidy scheme, the Business Finance Guarantee scheme, and a package of business tax changes. While these measures apply to businesses beyond just SMEs, they provide substantial benefits to the SME sector.
- More support is needed however, to boost confidence and help SMEs get through the crisis. In particular, some SMEs are struggling to meet their non-labour related fixed costs, but are not in a position to take on additional debt. Without further support from the Government, some otherwise viable SMEs may be forced to close down permanently.

Inland Revenue Policy Initiatives – 15th April 2020

- The Government has announced a suite of new measures to provide relief for businesses during the COVID-19 pandemic.
- These include:
  - Greater flexibility for taxpayers in respect of statutory tax deadlines;
  - Changes to the tax loss continuity rules;
  - A tax loss carry-back scheme;
  - Measures to support commercial tenants and landlords; and
  - Further business consultancy support.

GREATER FLEXIBILITY IN RESPECT OF STATUTORY TAX DEADLINES

- Discretion to change due date for filing returns & making payments
- Time limited (18-months)
- Only available for businesses affected by COVID-19

Greater flexibility in respect of statutory tax deadlines

- Inland Revenue will be given greater flexibility to modify timeframes or procedural requirements for taxpayers who are impacted by COVID-19.
- An amendment will introduce a discretionary power into the Tax Administration Act 1994 to allow Inland Revenue to provide an extension to due dates and timeframes, or to modify procedural requirements set out in the Revenue Acts.
- This could include, for example, extending deadlines for filing tax returns and paying provisional and terminal tax.
- At this stage, the power will be time-limited for a period of 18 months and will apply to businesses affected by COVID-19.
- We will publish further guidance in the coming weeks after targeted consultation with tax advisors.

CHANGES TO THE TAX LOSS CONTINUITY RULES

- Moving from a continuity of ownership test to a 'same or similar business' test
- Applies from the 2020-21 tax year
- Detailed design & consultation in second-half of 2020

Changes to the tax loss continuity rules

- Our current rules are amongst the most stringent in the world, and we recognise that in this extraordinary time, businesses may need to raise additional capital to remain afloat.

- The in-principle announcement gives taxpayers raising capital a level of certainty to undertake these transactions, while also giving officials time to work through the detailed design of rules that can be included in a bill in the second half of 2020.

- The Government intends passing legislation before the end of March 2021, and for it to apply to the 2020/21 and later income years.

Changes to the tax loss continuity rules

- Currently, if a company has more than a 51% change in ownership it cannot keep its tax losses.
- The introduction of a 'same or similar business' test, means a business could carry forward losses. To meet the test, the business must continue in the same or a similar way it did before ownership changed. This test is modelled on Australia's rules.
- Some companies will be looking to raise capital to keep afloat now and to recover in the future. Raising capital may result in a change to the existing shareholder structure. Relaxing the rules will ensure companies in this position could carry losses forward to offset income when they return to profit.
- Being able to carry forward losses makes the business more valuable to investors. The rules should improve access to capital for businesses.
- We understand that some businesses and investors will want to know now if the proposed changes will apply to them, however we need to take time to work with the tax community to make the law clear. There will be public consultation on the proposed changes in the second half of 2020. It is important the law changes prevent loss trading.

Changes to the tax loss continuity rules example

- A start-up firm, Conference in the Clouds Limited (CIC) offers microphone and webcam software. It has been making large losses in recent years. However, it now wants to scale up significantly, given that more people are working from home and using videoconferencing.
- Despite its promising early-development software, banks are unwilling to lend to CIC without it having a firm revenue base. CIC has approached several investors, and has received an offer from a video conferencing company, Cloudcon Limited (Cloudcon), to inject millions of dollars into CIC in return for a 75% stake in the business. CIC wants to accept the investment, but is wary of losing the value of its losses, which would be extinguished under the current shareholder continuity test. The government's new ‘same or similar business’ test ensures that CIC can take on the new investor without losing its losses because its business will be of a same or similar nature as the business it was carrying on when it made the losses.
- Given this, the price CIC’s owners receive for the 75% equity stake is higher (the business receives a greater capital injection) as the ability to carry forward losses makes the business more valuable to investors.

TAX LOSS CARRY-BACK SCHEME

- Allow for carry-back of tax losses
- **Phase 1**: Temporary application for the 2019/20 & 2020/21 tax years. Legislation to be passed 27 April 2020
- **Phase 2**: Permanent application for future years subject to detailed design & consultation in the second-half of 2020

Tax loss carry-back scheme

- A loss carry-back mechanism enables a firm to offset a loss in a particular tax year against a profit in a previous year, and receive a refund of the tax paid in the previous profitable year.
- The proposed mechanism will provide cash to firms that are, or anticipate, being in loss.
- A temporary mechanism will be included in a bill introduced the week of the 27th April 2020.
- Between now and then Inland Revenue will be undertaking targeted consultation with tax advisors to make the law and administrative guidance as clear as possible.

Phase 1: Temporary loss carry-back scheme

- This temporary change should be introduced in a bill in the week beginning 27 April.
- Businesses expecting to make a loss in either the 2019/20 year or the 2020/21 year would be able to estimate the loss and use it to offset profits in the past year. In other words, they could carry the loss back one year.
- This change means we could refund some or all the tax already paid for the year they were in profit. It means firms could cash out all or some of their losses in 2019/20 or 2020/21. Without this change, firms would have to carry forward any loss to a year when they make a profit.
- Taxpayers do not need to rush to re-estimate their provisional tax before 7 May. Part of the proposed law change would make it possible for them to re-estimate it after the date of the final instalment. This will give them more time to work out any estimated loss for the 2020/21 income year.

Phase 1: Temporary loss carry-back scheme

- Between now and 27 April, officials will consult with tax advisors to ensure the law and administrative guidance is as clear as possible.
- While we aren't able to answer questions before the law passes, we encourage businesses to raise with us any issues they want to see addressed in the legislation or administrative guidance.
- You can email us at:

loss-carry-back-issue@ird.govt.nz

- We will not respond to each individual email, but we'll attempt to answer questions in the published guidance.

Phase 2: Permanent loss carry-back scheme

- The Government proposes a permanent loss carry-back scheme, applying to the 2021/22 and later income years.
- There will be public consultation about this measure in the second half of 2020.

Tax loss carry-back scheme example

- Wiki Wiki Hospitality Limited (Wiki) has had a profitable year for the year ended 31 March 2020. It has not yet finalised its tax return, but it is expected to return $2m net income. Its final provisional tax payment for the expected $2m income is coming up on May 7, where it expects to pay $250,000 in tax (it has already paid $310,000 in early provisional tax instalments).
- However, because of COVID-19, it is not operating at the moment, and does not know when it will be allowed to resume operating. It is still paying its staff (supported by the wage subsidy scheme) and rent. It seems inevitable that it will make a loss in the year ended 31 March 2021. In early May, the directors meet with the CFO and forecast some scenarios. In all the scenarios, Wiki will make a loss of $1.5m for the year-ended 31 March 2021, although some scenarios sees it making a $2m loss.
- Knowing it will face use-of-money-interest charges if it over-estimates its loss, Wiki decides to carry-back the more certain loss of $1.5m to the 2019/20 year, and re-estimate its income for that year to $500,000 (down from $2m). Because it has already paid $310,000 in tax, it pays nothing on May 7, and receives a refund of $170,000 from its earlier provisional tax payment. In short, for the 2019/20 year, Wiki returns $500,000 of income and pays $140,000 tax, receiving back its earlier payments as refunds.

Miscellaneous issues

Filing returns & making payments
31 March 2020 – issues & impacts
Tax residency issues
International disclosure requirements

Student loans
Insurance proceeds
GST
Oaths & Declarations Act

Filing returns & making payments

- GST– filing & paying
- Employer obligations – filing & paying
- Making payments to IR
- Difficulty paying tax
- Closure of Westpac branches
- Income tax refunds & ICA returns

Goods and Services Tax

- We understand that business owners are under pressure and tax compliance can add to their stress, however we cannot change or extend the legislated due date for filing GST returns.
- The most important thing is for customers to file, even if they cannot pay, so that Inland Revenue, and the Government, have up-to-date information about what is happening in the New Zealand economy.
- If customers cannot pay their GST now they can go online and set up an instalment arrangement that suits them.
- If you are concerned about the financial consequences of not paying on time, please read the information on our approach to Use of Money Interest remission.

Employer Obligations

- We know it's challenging for customers in the current environment to continue to file Employment Information each payday. However, filing Employment Information ensures information about employees is up to date and accurate and will also help support any application for the Government's recently announced wage subsidy (if required) given the current context of COVID-19.
- Employment information is critical to our ability to complete the automatic assessment process for the 2020 tax year and release any resulting refunds to New Zealanders who need them now, more than ever.
- If you are concerned about the financial consequences of not paying on time, please read the information on our approach to Use of Money Interest remission.

Making payments to Inland Revenue

- As many of you will know, IR no longer accepts cheques. This may impact some customers who are unable to go to Westpac and pay over the counter (due to COVID-19 restrictions). We understand customer concerns, but want to reiterate that, if customers are unable to pay taxes on time due to the impact of COVID19, we will understand. Please ensure they get in touch with us when they can and we'll write-off any penalties and interest.
- As a reminder, there are several options - with internet banking or using myIR being the easiest. Businesses can also make credit card or debit card payments over the phone or set up direct debit payments through their myIR account. Find out more on our website: Ways of paying.
- Our next Business Transformation stage will also include a new self-managed phone payment option (for debit and credit cards).

Difficulty paying tax

- If you're having difficulty paying outstanding tax, we can help. If you'd like to break down your payments, you can set up an instalment arrangement in myIR.
- You can also apply for a write-off due to serious hardship if you know you won't be able to pay the full amount. If we grant relief from payment due to hardship and you have losses to carry forward, these losses will be reduced in proportion to the amount written off.
- Alternatively, you can send us a disclosure of financial position form - IR590 or call us on our Adverse Events line at 0800 473 566.
- Find out more on our website: Difficulty paying tax

Closure of Westpac branches

- Westpac offices will be open one day a week (Wednesdays) during the nationwide lockdown in response to COVID-19. As a result, taxpayers who pay their tax obligations via their local Westpac branch will only be able to do so on Wednesdays.
- If your business is unable to pay its taxes on time due to the impact of COVD-19, we understand, you don't need to contact us right now. Get in touch with us when you can, and we'll remit any penalties and interest.
- It would help if you continue to file however, as the information is used to make correct payments to people, and to help the Government continue to respond to what is happening in the economy.
- There are other ways you can pay your tax, via internet banking or using myIR. You can make credit card or debit card payments or set up direct debit payments through your myIR account. Find out more on our website: Westpac only opens Wednesdays.

Income tax refunds & the requirement to file an ICA return

- We have been asked if we can release refunds from income tax where an ICA return (or the relevant year's income tax return) hasn't been filed, if the customer can give us a reasonably assurance that they have sufficient IC's to entitle them to a refund.
- Unfortunately, the answer is no. The requirement to file an ICA return is a legislative one, and we do not have discretion to depart from it.
- This is because a companies Income Tax refund is limited under section RM 13 of the Income Tax Act 2007 to the balance of their ICA account.
- If they have not filed the ICA return, we simply don't know if they are entitled to the refund, so we can't release it.
- It isn't just an administrative requirement to file an ICA return, it is a necessary step to allow us to determine they are actually entitled to the refund at all.

31 March 2020 – issues & impacts

- Time bar for 2019 income tax returns
- LTC elections
- Subvention payments
- Beneficiary distributions
- Trading stock valuations
- Extension to the due date for Basic Compliance Packages

Time bar for 2019 income tax returns

- It remains important to furnish the returns as soon as possible. However, any late filing penalties will be waived in these circumstances.
- Late tax return filings will also have the effect of extending the time bar in s 108 to 31 March 2025 (instead of 31 March 2024).
- Due to the impact of COVID-19 and related potential for filing delays, as at 31 March 2024 the Commissioner will close any review or other compliance activity for any 2018/2019 income tax return which is:
  - due on or before 31 March 2020 and is furnished after 31 March but before 31 May 2020
  - not subject to any existing exclusions from the standard 4 year time bar
  - not subject to a dispute:
    - commenced by NOPA issued before 1 January 2023, and
    - involving alleged tax avoidance, or
    - having tax in dispute of greater than $200 million.
- The Commissioner may need to clarify the circumstances of any delay in filing. This is limited to the effects of the COVID-19 virus. Read more on our website: Covid-19 Income Tax & time bar.

LTC elections for NEW companies: due 31 March 2020

- LTC elections for new companies, or companies that were previously non-active, for the 2019 income year are due 31 March 2020.
- The Commissioner can accept LTC elections up to the last date for filing 2019 income tax returns which means they can now be filed no later than 31 May 2020 .
- Example
  - Smith Street Ltd is a new company and its shareholders and director were intending on electing the company into the LTC regime. This fully signed and dated election form was due by the 31 March 2020; the due date of their first income tax return.
  - However, due to COVID-19 the required LTC election form was unable to be completed and provided to Inland Revenue until 5 May 2020.
  - As the election was filed before 31 May 2020, the last date allowed by the Commissioner for filing a 2019 income tax return, the LTC election is allowed.

LTC elections for EXISTING companies: due 31 March 2020

- LTC elections for existing companies, that were previously required to file an income tax return, electing to be a LTC for the 2021 income year are due 31 March 2020.
- The fully signed and dated election is required before the start of the 2021 income year so for a *standard balance date* company it was required by 31 March 2020.
- However the Commissioner can accept late LTC elections if there are exceptional circumstances outside the control of the owners and they are signed and dated in the 2021 income year.
- For the purposes of LTC elections, the Commissioner considers that COVID-19 is an exceptional circumstance and may allow late elections that are fully signed and dated during the 2021 income year. It is important to note the election must be filed as soon as possible and not left to later in the year merely for convenience.

LTC elections for EXISTING companies example

- Johns Fashion Ltd is an existing company that had filed a 2020 IR4 company tax return and its shareholders and director were intending on electing the company into the LTC regime for the 2021 income year. This election was due by the 31 March 2020; the day before the start of the 2021 income year.
- However, due to COVID-19 the required LTC election form was unable to be completed but was provided to Inland Revenue on 5 May 2020 which was as soon as possible due to COVID-19.
- Johns Fashion Ltd's tax agent writes to Inland Revenue and provides details of the exceptional circumstances relating to COVID-19 that prevented the election being made on time. As the election was filed as soon as possible, the late LTC election is allowed.

Subvention payments: due 31 March 2020

- For a subvention payment to be valid, two conditions must be met:
  - The payment must be made by 31 March 2020;
  - The two companies must provide Inland Revenue with notice of the subvention payment.

- For subvention payments for the 2019 tax year which would otherwise have been due on 31 March 2020, if the companies:
  - Agree that they intend to make a subvention payment; and
  - File their income tax returns as soon as practicable, but by 31 May 2020 at the latest; and
  - Provide Inland Revenue with notice of the subvention payment by the 31 May 2020

  Inland Revenue will allow the subvention payment.

- An example follows on the next slide

Subvention payments: due 31 March 2020 example

- Zeus Technologies Group is a group of software companies operating in New Zealand with common ownership and a balance date of 31 March.
- Zeus Technologies Group intends to make a subvention payment between two of its group companies; Z Sales Co Ltd (the profit company) and Z Development Co Ltd (the loss company). The necessary conditions relating to subvention payments have been met. Z Development Co Ltd has agreed to receive a subvention payment from Z Sales Co Ltd in return for Z Sales Co Ltd bearing its tax loss.
- Zeus Technologies Group was due to file its 2019 income tax return by 31 March 2020 as it had an extension of time. However, due to COVID-19 the group was unable to provide its tax agent with its latest tax information and the group was therefore unable to file by 31 March 2020. The Commissioner has indicated that provided Zeus Technologies Group files its return as soon as practicable and before 31 May 2020, any late filing penalties will be waived and the time bar will not be extended (assuming the required conditions are satisfied).
- Similarly, as a result of COVID-19 Zeus Technologies Group was also unable to provide the Commissioner with notice of the subvention payment before the due date of 31 March 2020 and Z Sales Co Ltd did not make the subvention payment to Z Development Co Ltd.
- Zeus Technologies Group files its group tax return on 4 May 2020, including notice of the subvention payment between Z Sales Co Ltd and Z Development Co Ltd. Z Sales Co Ltd makes the subvention payment to Z Development Co Ltd on 4 May 2020 also. As the subvention payment and election (and group tax return) were late as a result of COVID-19 but were made as soon as practicable and before 31 May 2020 the Commissioner will allow the subvention payment.

Beneficiary distributions: due by 31 March 2020

ITA: HC 6

- Beneficiary income is, by definition, an amount which has vested absolutely to the beneficiary within the income year, or by the later of:
  - A date within six months of the end of the income year; or
  - The earlier of:
    - The date on which the Trust files its tax return or;
    - The due date of the Trust's tax return

- If an amount has not absolutely vested to the interest of the beneficiary by 31 March 2020 (at the latest) then it cannot be treated as beneficiary income for the 2019 tax year and must therefore be declared as trustee income in the Trusts tax return.

- An example follows on the next slide

Beneficiary distributions: due by 31 March 2020 example

- Wilson Family Trust is a trust with three beneficiaries to which it usually distributes some beneficiary income every year. The trustees of the Wilson Family Trust are required to make these distributions to the beneficiaries before 31 March 2020 when they file the 2019 trust tax return (which has an extension of time).
- In February 2020, one of the trustees (Wilson Family Trust's accountant) remembered that the Trust needed to ensure payment was made to the beneficiaries before the tax return was filed on 31 March 2020. The accountant trustee made a note in her calendar, reminding her to follow up with the other trustees who had forgotten about allocating any income to the three beneficiaries for 2019.
- However, since then the impact of COVID-19 has led to significant delays in the ability of the Trust's accountant to access information regarding the Wilson Family Trust from the other trustees. Additionally, the accounting firm was closed during the level four lock-down and was unable to file the Trust's 2019 tax return by 31 March 2020. As a result, no distributions were made to beneficiaries of the Wilson Family Trust by the 31 March due date.
- Although the Wilson Family Trust will be able to file its 2019 tax return late with any late payment penalties waived, there is no discretion for a late distribution of beneficiary income. As a result, all income of the Wilson Family Trust for the 2019 income year will be taxable as trustee income.

Trading stock valuations: as at 31 March 2020

- The Commissioner will allow a late 2020 stocktake, provided it is carried out as soon as practicable and no later than 31 May 2020. The 2020 closing stock figure needs to be reconstructed by adjusting for post-balance date sales and purchases – those made between balance date and the late stocktake date.
- Example:
  - Wiremu's Home Appliances Ltd sells and repairs kitchen appliances. It has a standard balance date of 31 March. At the end of the 2020 income year, the company was required to value its trading stock. However, as a result of COVID-19, it had to shut down its business and was unable to undertake the stocktake on 31 March 2020.
  - On the 28th April, the company reopens its business and undertakes a late stocktake. It has kept a record of all amounts of post-balance date sales and purchases. Using the cost valuation method, it adjusts the late stocktake figure (to reconstruct what would have been the amount of closing stock at the end of 2020), by adding back the cost of post-balance date sales and deducting the cost of post-balance date purchases.

Extension to the due date for Basic Compliance Packages

- We can confirm that the due date for lodging your annual Basic Compliance Package has been extended to 30 June 2020.
- A letter advising of the new due date has been issued to all customers who are required to lodge a Basic Compliance Package this year.

Tax Residency

- Individuals may be required to stay in New Zealand for longer than they were intending and/or are now stranded in New Zealand.
- Company directors & employees may be also be stranded in New Zealand or overseas as a result of COVID-19

Tax residency issues

- COVID-19 has caused unintended consequence of the tax residence rules. Inland Revenue has considered a number of residence related issues raised by COVID-19 and further detail can be found on our website [insert link to public statement on residence issues].
- Where relevant, the Commissioner will apply s 6 and s 6A of the TAA in relation to tax residency issues as detailed in the following scenarios.
  - Company residency: Location of meetings, control & centre of management
  - Company residency: Fixed establishment
  - Individual residency: 183 day test
  - Individual residency: 92 day test for non-resident employees
  - Individual residency: 92 day test for non-resident contractors
  - Individual residency: NZ-based student loan borrower outside of NZ for >184 days

Company residency: Location of meetings, control & centre of management

- Tony's Technology Ltd is incorporated overseas and was not tax resident in New Zealand before the present emergency.
- Directors Tony, Tina and Terry are stranded in New Zealand and have been arranging board meetings online with Tim who is overseas.
- The reason for holding the board meetings with three directors in New Zealand is because of COVID-19 and the inability to travel.
- Neither directors' control nor centre of management have changed to New Zealand because of the emergency conditions.
- Tony's Technology Ltd **does not** have tax residence in New Zealand.
- Tony, Tina and Terry will leave New Zealand as soon as they are able.

Company residency: Fixed establishment

- Karen Consultants Limited is incorporated overseas and is not tax resident in New Zealand.
- Three employees are stranded in New Zealand because of COVID-19.
- There was no fixed establishment in New Zealand before the impacts of COVID-19.
- The employees' extended presence in New Zealand is unplanned and short-term. There are no other changes in the company's circumstances.
- Karen Consultants Ltd does not have a fixed establishment in New Zealand and **has not** become tax resident in New Zealand because of the employee's presence during the emergency.
- The employees will leave New Zealand as soon as they are able.

Individual residency: 183 day test

- Jane was visiting New Zealand on an extended holiday as the guest of a friend.
- She had been present in New Zealand for 170 days in a 12-month period when under the present emergency she became stranded in New Zealand.
- She was advised that she could not fly home.
- For the purpose of the day test she will remain fixed at 170 days for the period from when is unable to leave New Zealand up to and including the day when she departs.
- That is so long as she leaves New Zealand after a reasonable number of days from when she is no longer practically restricted in travelling.
- Jane **has not** become tax resident in New Zealand.
- Jane plans to leave as soon as she is able.

Individual residency: 92 day test for non-resident employees

- Peter was providing IT consulting services on behalf of his overseas based employer while present in New Zealand to assist a related business. Peter pays tax on his income in his home jurisdiction.
- It was intended that his stay would be for 70 days but he has become stranded in New Zealand.
- For the purpose of the 92 day test he will remain fixed at the day count as it was from when he was unable to leave New Zealand up to and including the day when he departs.
- So long as Peter leaves New Zealand within a reasonable time after he is no longer practically restricted in travelling his **income remains exempt** even though he has stayed longer than 92 days.
- Peter plans to leave as soon as he is able.

Individual residency: 92 day test for non-resident contractors

- Jim is a contractor based overseas who visited New Zealand to provide some specialist engineering advice on a construction project.
- Jim's stay was intended to be for 70 days but he has become stranded in New Zealand.
- For the purpose of the 92 day test he will remain fixed at the day count, as it was from when he was unable to leave New Zealand and up to and including the day when he departs.
- So long as Jim leaves New Zealand within a reasonable time from when he is no longer practically restricted in travelling then he will **not** be held to have received a schedular payment.
- Jim **has not** become subject to the withholding tax obligations in the PAYE rules because he stayed longer than 92 days in these circumstances.
- Jim plans to leave as soon as he is able.

Individual residency: NZ-based student loan borrower outside of NZ for >184 days

- Jill has a student loan but she has been on an OE.
- She is stranded and she will be out of New Zealand for over 184 days when she is finally able to return to New Zealand.
- So long as Jill returns to New Zealand within a reasonable time from when she is no longer practically restricted in travelling she will not be viewed as an overseas based borrower.
- Therefore she **will not** be charged interest as she would be if she was an overseas based borrower.
- Jill plans to return to New Zealand as soon as she is able

INTERNATIONAL DISCLOSURE REQUIREMENTS

- Breach of the conditions of an Advance Pricing Agreement
- Due date for Annual Compliance Reports for the 2019 tax year
- Due date for the International Questionnaire
- Due date for CFC disclosures
- CRS & FATCA

Breach of the conditions of an Advance Pricing Agreement

- We are aware that customers with current Advance Pricing Agreements (APAs) may be impacted during the COVID-19 Crisis.
- At this stage, we do not know how significant the disruption will be or how long it will last and there will be considerable variations between sectors and types of businesses.
- It is only after the dust has settled that we will be able to reset the likes of APAs but we do recognise these rulings will need to be reconsidered in light of this global upheaval.
- We would like to reassure customers that they do not need to take any specific action now to ensure that their circumstances are appropriately reviewed in due course

Breach of the conditions of an Advance Pricing Agreement

- To ensure that customers can focus on critical business decisions at this time, we note the following:
  - IR input or permission is not required where a customer makes a business decision that results in an APA breach.
  - If an APA breach occurs, please advise IR in the relevant year's Annual Compliance Report (ACR). We recognise that due to the significant uncertainty faced by business currently, communication at any earlier point, particularly before year-end or before a tax position is taken, may be problematic.
  - When reviewing an APA breach disclosed in the ACR, IR will have regard to the exceptional circumstances faced by the customer and we anticipate that there will be some circumstances where the arm's length outcome during the Covid19 pandemic may differ from that agreed in the APA.

Due date for Annual Compliance Reports for the 2019 tax year

- The terms of most Advance Pricing Agreements require an Annual Compliance Report to be filed at the same time as the relevant Income Tax return, or, at the latest, by the due date for that Income Tax return.
- If your tax agent has applied for Deferred status for your 2019 Income Tax return then we will apply the same extension to the due date for your Annual Compliance Report.
- If you have any questions or concerns about your particular situation please contact us at:

Transfer.Pricing@ird.govt.nz

Due date for the International Questionnaire

- We are happy to consider extensions on a case-by-case basis and we will be pragmatic given the current situation effecting most businesses.

- We have already received a number of completed responses and we are happy to work with any corporate experiencing difficulty in responding.

- If you need to discuss an extension please contact us via email at:

InternationalQuestionnaire@ird.govt.nz

Due date for CFC & FIF disclosures

TAA: s.61

- We understand the effect that COVID-19 has had on many of our customers, including their ability to access the financial information required to complete the necessary disclosures and tax returns on time. Accordingly, we are aware that for some taxpayers it has been impossible or impractical for them to have filed their CFC or FIF disclosures and tax returns by 31 March 2020.
- If you have been unable to complete your CFC or FIF disclosure on time and the delay is attributable to the effects of the 2020 COVID-19 outbreak, no compliance action will be taken, or penalties imposed, provided that you file the CFC or FIF disclosure by 31 May 2020. To be eligible for this relief, the relevant income tax return must be filed.
- Find out more on our website:
  - Controlled foreign companies
  - File a controlled foreign company disclosure
  - Foreign investment funds
  - File a foreign investment fund disclosure

CRS & FATCA

- We understand that many of you will be facing several challenges during these extreme circumstances.
- If you do need an extension for filing your disclosures, then get in touch with us at your earliest convenience so we can work out something that suits your circumstances.

- Contact us on either:

fatca@ird.govt.nz

global.aeoi@ird.govt.nz

STUDENT LOANS

- Hardship relief for NZ based borrowers
- Hardship relief for overseas based borrowers
- Unable to return to NZ

Student Loan Borrower: hardship or reducing current assessments

- If you're struggling to make your student loans payments, we might be able to reduce your repayment obligations. Alternately, you can propose an instalment arrangement to suit your situation.

- You can also apply for a student loan repayment deduction exemption if you're New Zealand based and:
  - are studying full-time, or about to start studying
  - will reasonably expect to earn under the annual repayment threshold.

- Find more information on our website:
  - Hardship & defaulting on my student loan
  - Student loan repayment deduction exemption

Student Loan Overseas Borrower: hardship or reducing current assessments

- If an overseas based borrower is unable to pay the required amount, they can apply for hardship relief, and the obligation may be reduced.
- When dealing with overseas based borrowers Inland Revenue will ensure we are taking the current situation with COVID-19, worldwide, into account.
- If you contact us and we can see that you have been keeping up to date with your repayments, or have been making repayments under an arrangement, and you are now unable to make these payments then we will discuss options for the capitalisation of arrears and/or options for reducing your current assessment.

Student Loan Borrower: Unable to return to New Zealand

- If you were intending to travel back to New Zealand but are now unable to, you can apply for your student loan to be interest-free.
- You'll need to have been a New Zealand tax resident while you were overseas and show that you were intending to stay overseas for less than 184 days.
- You’ll need to provide the following proof:
  - evidence of the reason you were delayed
  - your original flight reservations
  - a completed New Zealand tax residence questionnaire (IR886) if you were overseas for more than 325 days.
- Find more information on our website:
  - Unexpected delay returning to NZ when I have a student loan

INSURANCE PROCEEDS

- Individuals

  Income protection insurance
  Personal sickness insurance

- Businesses

  Income tax
  GST

Individual insurance polices

ITA: CE 11, CA 1(2)

- Whether or not payments from an insurance policy are taxable will always depend on the exact terms of the policy, however in most instances the following applies:

- Income protection insurance
  Amounts paid out under income protection insurance policies will be income to the recipient.

- Personal sickness insurance
  Amounts paid out under personal sickness insurance policies will be income only if they are income under ordinary concepts, but are generally exempt where the amount paid out is not calculated with reference to loss of earnings.

Business insurance policies

ITA: CG 5B. GSTA: 5(13)

- Any insurance or compensation amounts received are income if:
  - Received in relation to an interruption or impairment of business activities resulting from an event; and
  - Is attributable to a loss of income that the business would have otherwise derived.
- The income can be allocated to the later of:
  - The income year that the replaced income relates to; or
  - The year in which the amount is received or is able to be reasonably estimated.
- In practical terms this means that loss of income insurance is taxable, but if received prior to 31 March 2020 it can be spread if it relates to income that would have been derived after 31 March (the 2021 year)
- Receipts of insurance for loss of income are deemed to be in the course or furtherance of a taxable activity and are therefore subject to GST.

Goods & Services Tax

- GST on cancelled supplies
- GST adjustments for change in asset use
- GST registration cancellations
- Extended period for zero-rating of exported goods

GST on cancelled supplies

- If you have returned GST on a supply that is subsequently cancelled, an entitlement to a GST adjustment arises in the period in which it becomes clear that the output tax returned is incorrect, e.g. the period in which the reimbursement was made.

- Where a tax invoice was originally issued for the supply, a credit note for the cancellation of the supply will also need to be raised to support any GST adjustment made.

- If, as a result of the cancellation of significant or multiple supplies, you make a claim for loss of income (or similar) insurance, the receipt of any insurance pay-out will be subject to GST as it is a deemed supply under section 5(13) of the GST Act.

GST adjustments for change in asset use

- If a particular asset is not being used at all for a period of time e.g. during the COVID-19 alert level 4 period then there are unlikely to be any change of use or apportionment adjustments required for GST purposes.

- If an asset e.g. a vehicle, is used both for business and private purposes and an actual use calculation is above the threshold to require an adjustment at the end of an adjustment period, primarily due to the fact that the asset could not be used for normal business use during the COVID-19 alert level 4 period, IR will apply a practical approach in accepting calculations that provide a fair and reasonable result in the circumstances.

GST registration cancellations

- If your business shuts down due to the COVID-19 Alert Level-4 situation you may need to de-register from GST.
- If a taxable activity has ceased the registered person should seek de-registration within 21 days of cessation. However, whether or not a taxable activity has ceased will depend on the facts of each case.
- After a period of making regular or frequent taxable supplies, making no taxable supplies for a 12-month period may be indicative of the taxable activity having ceased but it will depend on what other activities relating to those supplies or future intended supplies has occurred or will occur. For example, things done in relation to ending the taxable activity such as closing down operations or honouring warranty obligations for prior supplies are part of the taxable activity.
- Where a taxable activity has ceased and de-registration is appropriate, de-registration adjustments to return GST on any assets retained from the activity will be required

Extended period for zero-rating of exported goods

- Ordinarily, a supply of goods is zero-rated for GST if the goods are exported by the supplier within 28 days of the time of supply or a longer period if the Commissioner grants this.
- Inland Revenue understands that many customers may not be able to meet the 28-day period in s 11(4) of the Goods and Services Tax Act 1985 ("GSTA") to export goods at a zero-rate.
- The Commissioner already has discretion to extend the 28-day period under s 11(5) of the GSTA. However, customers affected by COVID-19 will have a 3 month extension to this period for export without needing to make an application to Inland Revenue.
- The 3 month extension starts on the day the 28-day period expires and applies to a supply of goods up to and including 31 July 2020. Further extensions may be considered on a case by case basis by following the normal procedure and application under s 11(5) of the GSTA.
- The following four examples illustrate how the extension will apply. Further detail can be found on our website [insert link to public statement on zero-rating and COVID]

Example: Automatic 3-month extension from expiry of 28-days

- Joe owns a marine supplies business that exports overseas.
- Joe received notification that ports in China were closing and there would be significant delays.
- Joe's 28-day time frame for exporting sails to a Chinese business expired on 2 April 2020.
- Without needing to make an application to the Commissioner, Joe has an extension to 2 July 2020.

Example: Application for an extension >3-months

- Hema exports valuable artworks.
- Because of individual circumstances, meaning that export must be highly secure, Hema is advised that delays will be more significant for some valuable paintings she is exporting.
- Hema contacts Inland Revenue and they agree that an extension for longer than 3 months is acceptable in this case.
- Hema is granted an extension of 6 months.
- Her 28-day period would have expired on 4 May 2020 but she is granted an extension after making an application to 4 November 2020.

Example: Automatic 3-month extension from time of supply

- Tim makes and exports toys to order.
- On 20 March 2020, prior to the lockdown, the time of supply was triggered for an export to the US.
- Tim does not run an essential service and he is unable to access his factory to make the toys for the export order.
- Because of the delay in manufacturing, Tim is unable to export the toys within the 28-day period.
- Without needing to make an application to Inland Revenue, Tim has an extension to 20 June 2020.

Example: No automatic extension if not impacted by COVID-19

- Mary works from home, making and exporting hand-made musical instruments.
- In her situation and in relation to her particular exports she has not been affected by Covid-19 delays.
- She is not entitled to a 3 month extension without making an application to Inland Revenue.
- In her situation she needs to make an application for an extension if there are any other circumstances beyond her control or reasons why it is not practical for her to export within 28 days

Statutory Declarations

- Epidemic Preparedness (Oaths and Declarations Act 1957) Immediate Modification Order 2020
- Impact on Inland Revenue processes

Statutory Declarations

- Some Inland Revenue processes and forms require customers to make declarations witnessed by a Justice of the Peace, solicitor or other similar person authorised to witness statutory declarations.
- In light of the COVID-19 epidemic, the Government has made a temporary law change to modify the requirements for signing and witnessing oaths, affirmations and declarations under the Oaths and Declarations Act 1957, allowing such declarations to be made without being witnessed in person, and instead be made using audio-visual or audio links.
- The Ministry of Justice has issued guidance about this change, which can be found on the Ministry of Justice website.
- If there is an Inland Revenue form or process that requires you to make a declaration, you should contact a solicitor or other person who can witness such a declaration to make arrangements for the declaration to be witnessed using the alternative measures discussed above.

IR processes that require statutory declarations

- Below are some examples of Inland Revenue processes that require customers to provide statutory declarations:
  - Withdrawing KiwiSaver funds due to significant hardship;
  - Applying to be a Tax Agent;
  - Applying for paid parental leave;
  - Proving your relationship with a child in your care when applying for paid parental leave;
  - Proving your relationship with a child in your care when applying for their IRD number;
  - Applying for a refund of tax paid by a deceased customer;
  - Completing an imputation ratio change declaration;

- This is not intended to be a complete list and there may be other processes that require a customer to provide a statutory declaration, any and all of these process are covered by the guidance on the Ministry of Justice website.

Intended audience: All customers

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