



OFFICE OF THE COMMISSIONER OF INLAND REVENUE

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*Property has its duties as well as its rights*

—Benjamin Disraeli



# Hypothetical or uncompleted transactions, reviewing past rulings

We have discussed the question of giving advance rulings and reviewing past decisions in earlier Bulletins. Some recent cases show that these previous statements may have been interpreted more widely than was originally intended — even to the extent that we could not review an incorrect assessment.

## **POLICY RESTATED**

We will continue to give interpretations and advice on—

- 1) actual cases;
- 2) questions of a general nature;
- 3) hypothetical or uncompleted transactions.

Our advice of course—

- 1) depends on the facts or the issues placed before us being well defined,
- 2) is given on the basis of the present law.

We hope that as far as possible our advice will stand. However, if it is later found to be wrong, we are bound to correct it whichever way it goes.

It is worth repeating here too the note of warning sounded in an earlier issue—

“Even seemingly small alterations to the proposals when finally brought in can materially alter the tax position”.

## **OVERSEAS VIEWS**

That this position is not confined to this country is well illustrated by this recent statement of the Australian Commissioner of Taxation, Mr E.T. Cain—

“Opinions when given cannot bind the Commissioner.

This is so, not because he does not wish to be bound but for the much more important reason that the law does not permit him to bind the Crown.”

### **REVIEWING ASSESSMENTS AND PAST RULINGS**

We will, of course, have to go back from time to time and amend assessments which are wrong.

Some interpretations, too, have to be changed from time to time as circumstances alter or new case law arises. When an interpretation has been based on well established practice or attitude we would expect that any change will only be made for the future.

However, once again we are bound to take into account all factors before coming to any decision and we are unable to give any general undertaking in these matters.

## **Gifts of livestock can be liable for both income tax and gift duty**

Remember when you make a gift of livestock you can be liable for gift duty as well as income tax. This is because the market value of the livestock gifted is used to work out the value of the gift for gift duty and, usually, for income tax also.

### **GIFT DUTY PAYABLE**

You pay gift duty if the total value of all gifts you make in a period of 12 months exceeds \$2,000. There is more information on this aspect in our pamphlet "Gift Duty in New Zealand".

### **INCOME TAX NOT ALWAYS PAYABLE**

You generally pay income tax on the difference between the standard values used and the market value of the livestock gifted. Some tax relief is available however if the livestock is gifted to a child, stepchild or grandchild who—

- 1) is over 18 years of age, and
- 2) uses the livestock in a farming business

The 'Farmers Tax Guide' on pages 20 to 24 tells you more about this relief.

# Tax effects of exchange alterations on 21 november 1967

We are getting enquiries about the effects of the November 1967 alterations in rates of exchange between New Zealand and other countries.

Certain general principles have emerged from previous exchange rate alterations and these have since been modified in some respects by leading overseas Court decisions. A notable case is the Australian High Court decision in *Caltex Limited v Federal Commissioner of Taxation* (1960), which established the general principle that exchange profits and losses for tax purposes arise in commercial enterprises at the point of receipt or payment. We consider there is no option but to apply this decision in New Zealand.

Facts in particular cases may affect the general principles but the position as we see it is—

## **GENERAL EFFECT OF ALTERATION**

For New Zealand tax purposes all income wherever derived and all figures relevant to that income must be expressed in New Zealand currency.

In comparison with previous rates of exchange New Zealand currency was devalued in relation to other currencies on 21 November 1967.

When a New Zealand taxpayer was owing money to overseas creditors or was owed money by overseas debtors, or had overseas balances or assets at that date, exchange profits or losses may have arisen.

Exchange losses may have been avoided by forward exchange contracts.

Exchange losses would be made when debts owing to overseas creditors were to be paid in overseas currency but not when they were to be paid in New Zealand currency.

The exchange loss is the extra amount of New Zealand currency required to provide overseas currency.

Exchange profits would be made when debts owing by overseas debtors were to be paid in overseas currency but not when they were to be paid in New Zealand currency.

The exchange profit is the extra amount of New Zealand currency provided by the overseas currency.

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### General effect of Alteration—Continued

Exchange profits and losses required to be taken into account for tax purposes are adjusted in the year the debt is in fact *received or paid*.

To illustrate, if a deductible exchange loss arises from a transaction entered into before 21 November 1967 and the debt was not paid until after the taxpayer's next balance date the exchange loss would not be deductible until the next financial year. However, this does not apply to similar transactions entered into after the exchange rate alteration, with the debt still outstanding at balance date.

Profits or losses arising from trading activities must be distinguished from those associated with fixed assets or liabilities on capital account.

In general, income for tax purposes takes into account profits or losses arising from trading or revenue account but not those on capital account.

Adjustments of exchange profits and losses for accounting purposes are not always in line with tax treatment.

### EXCHANGE LOSSES

#### Debts owing to overseas creditors

When the transaction giving rise to the debt was itself deductible for New Zealand tax purposes and the nature of the debt has not changed, the exchange loss is also deductible (in the year of *payment* of the debt).

When debts owing in respect of deductible outgoings have been converted to an advance on capital account as distinct from a debt owing on trading account an exchange loss is on capital account and not deductible.

Deductible losses would arise on payment of debts owing for—

- Stock-in-trade.
- Royalties.
- Administration and other service charges.
- Interest.
- Other revenue outgoings.

Non-deductible losses would arise with debts owing for—

- Loans.
- Advances.
- Unpaid dividends.
- Plant and Machinery (but 'cost' of asset for depreciation purposes may include loss).

## Exchange Losses—Continued

### **Stock-in-Trade**

Under this heading we are referring to stock purchased before 21 November 1967 but still on hand and not paid for at balance date.

As stated above, the exchange loss is not deductible until payment is made.

Exchange losses are not required to be included in 'cost' for stock valuation purposes at balance date.

'Cost' is the amount owing for the stock prior to the alteration in rate of exchange.

When accounting practice, in relation to purchases and stock-in-trade, does not produce the correct tax result in the accounts, an adjusting statement would need to be sent in with the tax return.

## **INVESTMENT AND OTHER NON-BUSINESS INCOME**

Income items in the nature of interest, dividends, pensions and other non-business income are converted to New Zealand currency at the rate of exchange ruling when the income is 'derived' overseas and not when it is remitted to New Zealand. In broad terms 'derived' means available for collection.

Exchange profits arising when this type of income has been paid into an overseas bank account prior to 21 November 1967 and subsequent to that date remitted to New Zealand or held overseas are ignored for tax purposes.

If 'derived' after 21 November 1967 the overseas income would be included in New Zealand tax returns at the new rate of exchange.

## **BUSINESS INCOME**

### **Business conducted from New Zealand**

Exchange profits arising from debts due by overseas debtors when the transaction giving rise to the debt was already itself income for New Zealand tax purposes are brought into income for tax purposes when the debt is paid.

Funds on account of New Zealand business income held temporarily overseas are brought into income for tax purposes at balance date at the current rate of exchange.

### **Overseas Branch of New Zealand Business**

In general income derived by an overseas branch to be brought into account for New Zealand tax purposes should be converted to New Zealand currency at the rate of exchange ruling at balance date.

When remittances of profit affect the position we will take into account the facts of the particular case.

Credit for the overseas tax on such income will be at the rate of exchange ruling when such tax was paid.

Business Income—Continued

**New Zealand Branch of Overseas Business**

Our view, based on our latest legal advice, is that exchange profits and losses arising from payments or internal accounting entries between branches and head office are ignored for tax purposes.

The legal advice is based on the premise that head office and branches are one entity and there can be no real debtor and creditor relationship.

However, the position is different for profits and losses on debts on trading account owing outside the entity included in balances between branches and head office. These are brought into account for tax purposes at the exchange rate ruling at the date when the debts are paid by the entity.

Returns of income should be put in on the above basis but we will naturally give full consideration to any submissions that our view is incorrect.

Profits and losses on trading account debts between parent and subsidiary companies, i.e. separate entities, are brought into account for tax purposes when the debts are paid.

**OVERSEAS SECURITIES**

When overseas securities held at 21 November 1967, acquired for the purpose of resale or otherwise coming within the provisions of section 88(1)(c) of the Land and Income Tax Act 1954, are subsequently resold any profit including that attributable to the alteration in the rate of exchange is brought into income for tax purposes.

**INCOME TAX RETURNS**

It would be helpful to us if brief details of adjustments made for exchange profits and losses are attached to your income tax return. It could save us having to send you a letter and, therefore, save you the trouble of a reply.

**3 cent cheque clearance  
fee not needed**

Some taxpayers are adding the 3 cent cheque clearance fee to cheques made out to this Department. You don't need to add this fee to any cheque payable to us.

# Export incentive to continue

The Minister of Finance, the Hon. R.D. Muldoon, has announced that the taxation concessions to exporters and tourist promoters would be continued after April 1.

Here are brief details of the allowances—

## **INCREASED EXPORTS INCENTIVE ALLOWANCE**

The allowance is 20% of the increased export sales for the income year ending 31 March 1968, or for the equivalent accounting year, and 15% for the year ending 31 March 1969 or the equivalent accounting year.

## **EXPORT MARKET DEVELOPMENT AND TOURIST PROMOTION EXPENDITURE**

The additional 50% allowance for export market development and for tourist promotion will be allowed for expenditure incurred up to 31 March 1969 (not to taxpayer's balance date if other than 31 March).

The allowance is worked out in New Zealand currency.

# Export incentive scheme extended

The Minister of Finance, the Hon. R.D. Muldoon, has also announced that the taxation incentive scheme for increased export sales has been extended to include the following types of animal products—

- 1) Woollen yarns
- 2) Worsted yarns.

## **THESE GOODS NOW QUALIFY**

Although certain goods including animal products and by-products were excluded from the scheme there is provision for exceptions to be made. The Income Tax (Export Incentive) Order 1968 now brings woollen yarns and worsted yarns into the scheme with effect from 1 April 1967.

## **HOW THE SCHEME WORKS**

The scheme provides for an additional deduction for increased export sales when the sales of qualifying goods exported during the year have increased by comparison with the average value of goods exported during a base period of three years.

The base period is the first three of the five years preceding the year of sale.



# New tax codes to be filled in by 1 april

## **NEW TAX YEAR STARTS ON 1 APRIL**

During March employees all over the country will be filling in tax code forms IR12 and giving them to their employers. Employed people with two or more jobs at the same time will be filling in secondary employment notices IR55 too.

## **WHY A TAX CODE?**

You need a tax code to—

- 1) get the benefit of the special exemptions you are entitled to claim, and
- 2) tell your employer what code to use to take off the correct amount of tax from your earnings.

All you need to do to establish a tax code is—

- 1) fill in a tax code declaration, IR12, or
- 2) get a tax code certificate from your local tax office; (We tell you more about this form later) and
- 3) give the completed IR12 or the tax code certificate to your employer.

## **Two or More Jobs**

If you have two or more jobs at the same time only one of your employers should be given a tax code declaration, IR12. The other(s) should be given a secondary employment notice, IR55. We suggest you give the IR12 to the employer from whom you will get the most wages. But you may use more than one IR12 in the same week if you—

- 1) Change from one full time employment to another.
- 2) Are engaged as a shearer, a shed hand or a casual agricultural worker.

## **No Declaration**

If you don't give your employer a tax code certificate, IR12, or a secondary employment notice IR55 he will have to take tax off your earnings at the "no declaration rate" of 27½c in the \$1.

### **SPECIAL TAX CODE TO IRON OUT VARIATIONS**

Sometimes tax taken off your secondary earnings is too high or too low. If you want your tax deducted at an even rate you can get a special tax code certificate from your local tax office. This form has the effect of reducing — or increasing — the amount of tax taken from your wages so as to produce roughly the amount of tax that would be payable in an annual tax bill.

Housewives, students and pensioners who work part time or for short periods during the year will find a special tax code gives them an immediate tax saving instead of waiting for a refund after 31 March.

Other cases when a special tax code certificate will give a taxpayer an immediate tax saving are—

- 1) If you pay—
  - life insurance premiums,
  - private-school fees for the education of your child(ren),
  - donations to approved charities or to registered private schools.
- 2) If you get married during the year.
- 3) If you have a—
  - child born during the year,
  - relation who is partially dependent on you.

### **NO TAX CODE NEEDED IN SOME CASES**

#### **You Don't Need to Fill in Form IR12**

If you are a School Child—

- 1) delivering newspapers, parcels, telegrams and so on,
  - 2) harvesting fruit or other products, or
  - 3) doing other odd jobs,
- and you will earn less than \$208 in the year.

### **PAMPHLET TELLS YOU MORE**

Your local tax office or main post office has a pamphlet entitled 'Tax Guide for the Salary and Wage Earner' which gives full details about—

- 1) filling in tax codes;
- 2) getting a special tax code.

Get a copy if you are not sure what to do.

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## New rates of sealing fees on grants of administration

New sealing fee rates have been approved by Order-in-Council. They apply to Grants of Administration sealed, or, foreign Grants, resealed, in New Zealand on or after 1 January 1968.

Here are the new rates—

When the value of an estate on which a sealing fee is payable is—

|                                   |  |
|-----------------------------------|--|
| not over \$ 200                   | the fee is \$ 1.00   |
| over \$ 200 but not over \$1,000  | the fee is \$ 2.00   |
| over \$1,000 but not over \$2,000 | the fee is \$ 6.00   |
| over \$2,000 but not over \$6,000 | the fee is \$12.00   |
| Over \$6,000                      | the fee is \$12 plus \$3 for every \$2,000 or part thereof in excess of \$6,000. |

## 1968 tax return forms

The 1968 tax return forms provide, of course, for incomes to be shown in dollars. However, we will accept returns in whatever currency suits you, but please show clearly which currency you have used.

### **ACCOUNTING MACHINES NOT YET CONVERTED**

If you are still using £. s. d. accounting machines to prepare your annual accounts, you don't need to convert the accounts to decimal currency. Just send in a copy of the accounts with your return and convert only the net income to be assessed. You can then work out your tax in the usual way.

### **WE WILL HELP**

If you have any trouble with your 1968 return get in touch with the local tax office. They will be glad to help you.

## Interest paid on some advance tax payments

Subsisting companies and public and Maori authorities who want to provide for their future tax liabilities can pay their tax in advance. We will pay interest of 4 percent per annum on all advance payments. The interest is worked out for each complete month to 6 February from the later of—

- 1) the previous 7 March, or
- 2) the date of payment.

If you wish to take advantage of this arrangement just send in your advance payment with a covering letter.

## Question and answer

### **Q** DEPRECIATION RATES ON MILKING SHEDS

I am thinking of converting my old milking shed to the herringbone design. My old shed was built in 1962 and I am allowed depreciation at the rate of 4 percent on cost. What rate can I claim when I have converted the shed?

**A** You will be able to claim depreciation at the rate of 10 percent on the cost of converting the shed to the herringbone design but you should continue to claim depreciation at the rate of 4 percent on the original cost of the shed.

Here is a summary of milking shed rates of depreciation—

- 1) **Milking Shed erected before 1 April 1966**  
All types — claim 4 percent on cost.
- 2) **Milking Shed erected and first used on or after 1 April 1966**  
All types — claim 10 percent on cost.
- 3) **Cost of converting to herringbone design after 1 April 1966**  
Conversion costs — 10 percent.