TIB Appendix

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Contents

Appendix A

Exemption D4: Exemption from the Requirements of Section 64H(1) of the Income Tax Act 1976

1. Explanation

Section 64H(1) of the Income Tax Act 1976 requires the full disclosure of all financial arrangements that are interrelated arrangements.

This exemption removes the disclosure requirement in respect of all interrelated arrangements, the making of which is a generally accepted commercial practice, except for those interrelated arrangements referred to in the Schedule to this exemption.

2. Reference

This exemption is made pursuant to section 64H(2) of the Income Tax Act 1976.

3. Scope of exemption

This exemption shall apply to the income year commencing 1 April 1993.

4. Interpretation

In this exemption, unless the context otherwise requires -

(a) Expressions used have the same meaning as in the Income Tax Act 1976:

(b) Every reference to an income year shall, where a person furnishes a return of income under section 15 of the Income Tax Act 1976 for an accounting year ending with a day other than the 31st day of March, be deemed to be a reference to the accounting year corresponding with that income year:

(c) "Interrelated Arrangement" means a financial arrangement that consists of two or more arrangements, whether or not those arrangements are themselves financial arrangements:

(d) "Liability" includes a contingent liability:

(e) A person shall be deemed to be a resident of New Zealand in relation to any activity or arrangement carried on through a fixed establishment outside New Zealand:

(f) A person shall be deemed to be a resident of New Zealand in relation to any activity or arrangement carried on through a fixed establishment outside New Zealand:

(g) "Value"' in relation to any financial arrangement, means -

(i) In relation to any variable debt instrument, other than an interrelated arrangement, the amount of money owing to the holder pursuant to the arrangement:

(ii) In relation to any fixed principal debt instrument, other than an interrelated arrangement or an instrument involving a notional principal, the greater of the acquisition price of the arrangement or the nominal or face value of the arrangement:

(iii) In relation to any security arrangement, the greater of -

(A) The amount of the maximum liability of the surety under the security arrangement:

(B) The sum of the values of the financial arrangements wholly or partially secured by the security arrangement:

(iv) In relation to any financial arrangement involving a notional principal (for example, certain types of interest rate or currency swaps, forward rate agreements, certain futures contracts), the amount of the notional principal:

(v) In relation to any arrangement which is not a financial arrangement, the total amount of consideration required to be provided under the arrangement by the person having the greatest liability under the arrangement:

(vi) In relation to any interrelated arrangement, the sum of the values of the arrangements that constitute the interrelated arrangement:

Provided that where, under an interrelated arrangement, consideration is required to be passed between persons more than once and as a consequence an amount would, but for this proviso, be required to be taken into account more than once in calculating the value of an interrelated arrangement, that amount shall not be taken into account more than once in calculating the value of the financial arrangement:

Provided also that where the value can be ascertained pursuant to more than one of the foregoing subparagraphs, the value shall be ascertained pursuant to the subparagraph that provides the greatest value.

5. Exemption

Any person who in an income year is party to an interrelated arrangement shall be exempt from the requirements of section 64H(1) of the Income Tax Act 1976 in respect of the interrelated arrangement and the income year where-

(a) The making of the interrelated arrangement is a generally accepted commercial practice; and

(b) The interrelated arrangement is not of a kind specified in the Schedule hereto.

Schedule

1. Any interrelated arrangement where:
   a) The parties to one of the arrangements making up the interrelated arrangement include both the resident of New Zealand and a non resident of New Zealand;
   b) The value of the interrelated arrangements exceeds $2 million at any time in the income year; and
   c) The interrelated arrangement has a purpose other than only to achieve the exchange of money in one currency for an equivalent sum of money in another currency, such exchange not being subject to any agreement to reverse the exchange at some future date.
2. Any interrelated arrangement where one of the arrangements making up the interrelated arrangement is a perpetual note and the value of the interrelated arrangement exceeds $2 million at any time in the income year.
3. Any interrelated arrangement where:
   a) One of the arrangements making up the interrelated arrangement is a share in a company which does not rank equally with the ordinary shares in the company in terms of voting rights to distributions; and
   b) The value of the interrelated arrangement exceeds $2 million at any time in the income year.
4. Any interrelated arrangement where-
   a) In respect of one of the arrangements ("the sub-arrangement") making up the interrelated arrangement, the amount of consideration provided or received by one of the parties under the sub-arrangement is influenced by the fact that the sub-arrangement is part of an interrelated arrangement; and
   b) The value of the interrelated arrangement exceeds $2 million at any time in the income year:

   Provided that this provision shall not apply to an interrelated arrangement where the amount of consideration to be provided or received by one of the parties to the sub-arrangement is influenced only by the existence of a security arrangement as part of the interrelated arrangement.
5. Any interrelated arrangement the value of which exceeds $20 million at any time in the income year.

This determination is signed by me on the second day of June in the year 1993.

H. G. Holland
Deputy Commissioner of Inland Revenue

Appendix B

Exemption D4 - Persons not required to comply with Section 245W of the Income Tax Act 1976

This exemption may be cited as "International Tax Disclosure Exemption D4"

1. Reference

This exemption is made pursuant to section 245W(2) of the Income Tax Act 1976. It details interests in foreign companies and foreign investment funds in relation to which any person is not required to comply with the requirement in section 245W of the Income Tax Act 1976 to make disclosure of their interests, for the income year ending 31 March 1993.

2. Interpretation

In this exemption, unless the context otherwise requires, expressions used have the same meaning as in section 2 or Part IVA of the Income Tax Act 1976.

3. Exemption

Interest in a Foreign Company

Any person who has an income interest or a control interest in a foreign company, in the income year ending 31 March 1993, shall not be required to comply with section 245W(1) of the Income Tax Act 1976 in respect of that foreign company and that income year, except where:

- the interest held by that person during any accounting period of the foreign company (the last day of which falls within that income year of the person), would constitute an "income interest of 10% or greater", as defined by section 245A of the Income Tax Act 1976, as if the foreign company was a controlled foreign company.

Interest in a Foreign Investment Fund

Any person who has an interest in a foreign investment fund, in the income year ending 31 March 1993, shall not be required to comply with section 245W(1) of the Income Tax Act 1976 in respect of that interest and that income year, except where:

- the person has made an election in terms of section 245Y(10) of the Income Tax Act 1976 in respect of that interest; or
- that interest was acquired or reacquired on any day between 2 July 1992 and 31 March 1993 (both days inclusive).

This exemption is made by me acting under delegated authority from the Commissioner of Inland Revenue pursuant to section 11 of the Inland Revenue Department Act 1974.

This exemption is signed on the 8th day of June 1993.

Tony Bouzaid
Director - Taxpayer Audit

Appendix C

Depreciation

In April 1993 we sent out the Appendix to Tax Information Bulletin Volume Four, No 9. That Appendix dealt with depreciation. Since publishing it, we've learned that it contained a number of errors. We apologise for this, and we've sent you these amendments to to correct those errors. Please cross-reference these amendments to the appropriate pages in the original Appendix.

The new policy on software has been finalised since the original Appendix was printed, so we've included it in this supplement.

A number of the rates listed in section 7.2 of the Appendix (pages 13 to 23) were incorrect, so we've included replacement pages for this entire section. ***These have the original page numbers on them for ease of reference, which is why the page numbering in this supplement apparently doesn't follow a logical sequence.***

Section 1.2 Assets that cannot be depreciated (page 3)

The first sentence states that to claim depreciation on an asset, it must decline in value while used or available for use in your business. This is not entirely correct. It is not necessary for an asset to decline in value, but there must be a reasonable expectation that in normal circumstances it will do so.

Section 1.4 GST implications (page 3)

This section states that if you are registered for GST you can claim the GST component of an asset's cost price. There are circumstances where this is not so, such as when you buy an asset which you will use to make non-taxable supplies.

Section 2.8 Calculating depreciation under the pool method (page 5)

The example in this section refers to the pool value as $21,000. This figure is the average pool value on which pool depreciation is based. The pool value as at the end of the income year (before deducting depreciation) is $24,000. Also, the example shows an incorrect adjusted tax value. The correct value is $19,380, calculated as follows:

value of pool at the end of income year	$24,000
less depreciation ($21,000 x 22%)	$ 4,620
adjusted tax value of pool	$19,380

Section 3.1 How rates are calculated (page 5)

The correct formula is:

$$1 - \left[\left(\frac{\text{residual value}}{\text{cost}}\right)^{\frac{1}{n}}\right]$$

5.4 Computer software (page 10)

Since we published this Appendix the policy on computer software has been finalised.

Software expenditure incurred before 1 July 1993 is fully deductible as an expense for tax purposes.

From 1 July 1993 onwards the tax treatment of expenditure on computer software is summarised in the six categories below.

For the purposes of this policy the terms used are explained as follows:

Development - the following activities are likely to be part of a development phase:

- gathering and analysis of user requirements
- system design
- detailed software specification
- programme construction
- software testing
- user or customer testing (acceptance testing)
- development of manual and training materials
- preparation of documents to describe, support, and for on-going maintenance of software product
- management review throughout the development phase (eg quality assurance)

Maintenance - the following activities will generally be accepted as deductible maintenance payments:

- help desk facilities
- fixing programme bugs
- bringing performance up to the original specifications of the software
- making minor changes such as increasing field sizes

Pre-development - this term refers to a feasibility study of a project as part of on-going business

continued on page 6

from page 5

Software - includes all programmes or routines used to cause a computer to perform a desired task or set of tasks, and the documentation and training materials required to describe and maintain these programmes.

Upgrade - generally an upgrade of computer software:

- adds new features to the structure
- increases its capacity or performance
- extends the life of the software
- provides a new version of the software that has more capacity or increased performance

Categories of expenditure

i) Software purchases
- Cost of purchase to be capitalised and depreciated at 40% diminishing value or 30% straight line
- Immediate write-off available for software costing less than $200
- Cost of maintenance may be deducted
- Cost of upgrades must be capitalised and depreciated at 40% diminishing value or 30% straight line

ii) Specified lease of software
- Cost price of software to be capitalised and depreciated at 40% diminishing value or 30% straight line
- Interest component of lease payments may be deducted
- Maintenance costs may be deducted
- Cost of upgrades must be capitalised and depreciated at 40% diminishing value or 30% straight line

iii) Software developed in-house for use in business
- Pre-development expenses may be deducted
- Development expenses must be capitalised until project completed and then depreciated at 40% diminishing value or 30% straight line
- Costs of unsuccessful development may be deducted
- Maintenance costs may be deducted
- Costs of upgrades must be capitalised and depreciated at 40% diminishing value or 30% straight line

iv) Commissioned software
- Development costs must be capitalised until project accepted, then depreciated at 40% diminishing value or 30% straight line
- Costs of unsuccessful development may be deducted
- Maintenance costs may be deducted
- Costs of upgrades must be capitalised and depreciated at 40% diminishing value or 30% straight line

v) Software leased other than under a specified lease
- Lease payments are deductible over the term of the lease

vi) Software developed for sale or licence
- Development costs deductible in year incurred
- Value of unbilled work in progress and unsold completed software must be taken into account as trading stock. The value of trading stock at balance date must be included as income in your return.

Where a payment covers both maintenance and upgrades, the cost must be apportioned between the two. The cost of maintenance is deductible and the cost of upgrade must be capitalised.

The appendix to TIB Volume Four, No.10 contains full details of depreciation on software. You can get a copy from any Inland Revenue office.

Section 6.2 Assets acquired between 16 December 1991 and 31 March 1993 (page 11)

If you are switching from the diminishing value method to the straight line method (or vice versa), to make the conversion:

1. Determine the ordinary rate (as highlighted in section 7.2)
2. Add 25% loading (also shown in section 7.2)
3. Use the chart in section 2.6 (page 4) to convert to the alternative method

Example

Accounting machines

ordinary rate	20% DV
with loading	25% DV
convert to straight line	17.5% SL

Section 6.3 Shift incentive (page 12)

The examples given in this section are incorrect in that the diminishing value rate is to be converted to a straight line rate after the addition of the shift incentive, and the 25% loading.

Example

	DV	SL
general plant & machinery rate	10%	7%
qualifying for 2 shift incentive	13%	8.5%
qualifying for 3 shift incentive	16%	10.5%

Where an asset qualifies for the shift incentive and the 25% loading, the rate is converted after these have been incorporated.

Example

general plant & machinery rate	10% DV
qualifying for 2 shift incentive	13% DV
add the 25% loading	16.3% DV
converted to straight line rate	11% SL
qualifying for 3 shift incentive	16% DV
add 25% loading	20% DV
converted to straight line rate	13.5% SL

Section 10.4 Index to asset categories (page 26)

The correct heading is "Asset Category" rather than "Industry Category".

The correct entry for "Reticulation systems" is:

"Reticulation systems (excluding electrical, communications and gas reticulation)"

Section 10.5 Economic depreciation rates

Factory and other sundries (page 59)

An additional asset is to be added to this category:

Advertising blimps

estimated useful life	5 years
DV Banded Depn rate	33%
SL Banded Depn rate	24%

Transportation (pages 65 & 66)

Add an asterisk to this asset listed on page 65:

"Aeroplanes (mechanically propelled, fixed wing, of an unladen weight exceeding 15,000kg, other than helicopters)

This indicates that a residual value of 25% has been used in calculating the depreciation rate for this asset. See section 10.1 for more information about "residual value".

The following are corrected descriptions for several of the motor vehicle and trailer assets listed on page 66:

Motor vehicles, class NA (for transporting light goods, that have a gross vehicle mass not exceeding 3.5 tonnes)

Motor vehicles, class NB (for transporting medium goods, that have a gross vehicle mass exceeding 3.5 tonnes but not exceeding 12 tonnes)

Motor vehicles, class NC (for transporting heavy goods, that have a gross vehicle mass exceeding 12 tonnes)

Trailers, class TC (for transporting medium goods, that have a gross vehicle mass exceeding 3.5 tonnes but not exceeding 10 tonnes)

Trailers, class TD (for transporting heavy goods, that have a gross vehicle mass exceeding 10 tonnes)

Trailers, classes TA and TB (for transporting very light and light goods, that have a gross vehicle mass not exceeding 3.5 tonnes) excluding Domestic type trailers

Trailers, (domestic type, not exceeding 1,000kg rated carrying capacity)

The abbreviations NA, NB etc are as included in the First Schedule to the Miscellaneous Transport Regulations.

Section 10.6 Alphabetical listing of assets (pages 68 & 69)

Correct the key to abbreviations on page 68 as follows:

"RETC" - Reticulation systems (excluding electrical, communications and gas reticulation).

Amend the alphabetical index on page 69 to include "advertising blimps" with the reference to "FACT" and page number 59.