

# LARGE ENTERPRISES UPDATE

Inland Revenue's corporate update

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## 2011 income tax filing season

With the 2011 filing year halfway through, now is a good time to think about return filing. Christmas is just around the corner so it might be timely to look at your filing plan and think about your processes.



The following hints and ideas should help speed up the process and improve the accuracy of information we hold about your tax agent or yourself:

- Only use the current, ie 2011, version for your returns. The key points change from year to year so it's important to use the latest return.
- Include an IR 10 for returns with a set of accounts. This can be completed onscreen but remember to print it because you can't save the information online. Attach the IR 10 to the return.
- Make sure losses carried forward are correctly entered.
- Remember only losses can be negative.
- Make sure you show details like attributed losses and shareholder salaries on the shareholder details page of the IR 4 (or use the IR 4S if you need more space).
- Only accounts should be stapled inside returns, this is so they stay with the return when put through our system.
- All other correspondence should be attached to the outside top left of the return so:
  - it can be detached and lodged in our correspondence system (this includes special transfer requests, provisional tax elections and loss letters)
  - the data on the page below can be easily read.

Supply details as follows:

- Show the valid IRD number on all returns.
- Please don't show **your tax agent's** street or postal address on the return because this will be updated and will overwrite the correct details we hold on your account.
- Changes to agent linking/delinking must be done by calling 0800 443 773, filling in an IR 795 form or calling your account manager.
- Please don't tick Box 36L (for IR 3) or Box 32F (for IR 4) for refunds by cheque if you have a current bank account loaded by us, as this will override all our bank account details.
- If a company has changed its name, please **don't** enter the change in Box 3 otherwise our system will incorrectly add the company's name as its trade name. Instead, please call us if you need to change a company's name. Our staff can access the Companies Office website and verify the change on the spot.

If you follow these tips, your returns should be processed promptly.



**Inland Revenue**  
Te Tari Taake

## Welcome to Large Enterprises Update

In this issue: 2011 income tax filing season, our holiday services, Taxation (Tax Administration and Remedial Matters) Act 2011, tax schemes and aggressive tax planning, using the GAP payment code, *Approved issuer levy* (IR 67A) form, doing things right when filing returns, ESCT deducted for super paid to benefit funds, losses extinguished when write-off occurs, changes to student loans are underway, GST treatment of credit card charges, responses to our leasing questionnaire, annual imputation return filing, changing your email address for your newsletter alert, international tax gets a new look on our website.

*If you have any suggestions for topics you'd like covered in this newsletter, email us at [LargeEnterprises.Update@ird.govt.nz](mailto:LargeEnterprises.Update@ird.govt.nz)*

## REMINDERS

**11 February 2012:** This is the third interim filing date for tax agents with an extension of time:

- 80% of returns filed for clients with standard balance dates
- 78.5% of E-File returns filed
- 75% of returns filed for clients with late balance dates.

If you think your group's filing numbers aren't on target to meet 100% by 31 March 2012 talk to your Large Enterprises account manager.

## Our services over the holiday season



Our normal services will be interrupted over the holiday season. For those of you who may be working during this time the table below shows the operating hours of the

Large Enterprises contact centre (0800 443 773).

Remember our website [www.ird.govt.nz](http://www.ird.govt.nz) provides information all year round.

We wish you a safe and relaxing break over the holiday season. We look forward to catching up again in the New Year.

Dates	Availability
Friday 23 December 2011	8 am to 2 pm
Saturday 24 December 2011 to Tuesday 3 January 2012	Closed
Wednesday 4 January 2012	8 am to 4.30 pm

The E-File system and helpdesk will be unavailable from midday Friday 23 December 2011 until Wednesday 4 January 2012.

Secure online services, ir-File and our 0800 self-service will be unavailable from Saturday 24 December and will start again at 6 am on Wednesday 28 December.

## Taxation (Tax Administration and Remedial Matters) Act 2011

The Taxation (Tax Administration and Remedial Matters) Act 2011 enacted on 29 August 2011 introduced a number of amendments. The following will be of particular interest to Large Enterprises.

The *Tax Information Bulletin* Vol 23, No 8 (October 2011) has more information on all the changes.

### Use-of-money interest (UOMI)

Previously UOMI has only been an expense when you had business income. Now, if you're charged UOMI, it is an expense whether or not you have business income. For all UOMI you:

- claim UOMI as an expense in the year you pay it and
- show UOMI as income in the year you receive it.

This is effective from the 1997–98 and later income years, subject to certain rules.

### Definition of "book and document"

The definition of "book and document" has been updated. The new definition of "document" now includes the medium information is stored on, the information itself and any device associated with the medium that allows the information to be communicated.

### Gift duty changes

Changes to the Estate and Gift Duties Act 1968 mean that gift duty will no longer be charged on liable gifts and therefore gift statements won't need to be filed with Inland Revenue. This change will apply to gifts made on or after 1 October 2011.

Gifts made in any 12-month period before 1 October 2011 that total more than \$12,000 must still have a completed a gift statement filed.

More detail on this change is available in a special report at [www.taxpolicy.ird.govt.nz](http://www.taxpolicy.ird.govt.nz) (keywords: gift duty abolition).

### Changes to the disputes process

There have also been changes to the disputes process. The main changes are as follows:

- the small claims jurisdiction of the Taxation Review Authority has been abolished
- a "challenge notice" has been introduced, with a four-year time bar on the Commissioner for taxpayer-initiated disputes. These changes are a result of removing the taxpayer's unilateral opt-out right in taxpayer-initiated disputes
- the criteria for allowing disputes documents to be submitted out of time under section 89K have been expanded, so that where the disputant has clearly demonstrated their intention to enter into or continue a dispute they may apply under section 89K
- a "refusal notice" has been introduced, which must be issued within one month of the taxpayer's application under section 89K(1) if the exceptional circumstances or intention to dispute application is to be declined
- section 138G now only limits disputants to the *issues and propositions of law* included in their statement of position (SOP). Facts and evidence relied upon still need to be outlined in the SOP.

Revised disputes standard practice statements will be published in the *Tax Information Bulletin* Vol 23, No 9 (November 2011) and will also be available at [www.ird.govt.nz](http://www.ird.govt.nz) (keywords: sps 11/05, sps 11/06).

## Tax schemes and aggressive tax planning

As part of our ongoing compliance programme, we're continuing to identify inappropriate schemes, tax planning and structures that unlawfully minimise tax. We're also focusing on the few individuals and businesses that use and promote them.

The recent Supreme Court decision in *Penny and Hooper v Commissioner of Inland Revenue* (24 August 2011) confirms that income allocation or diversion arrangements constitute tax avoidance.

We acknowledge that there are legitimate reasons for using entities, such as trusts or companies, in many business situations. Therefore the mere use of alternative business structures won't, on its own, amount to a tax avoidance arrangement. Each case of tax avoidance is dependent on the facts of that case. Our current concerns are with structures or transactions that produce the following inappropriate actions.

### Income shifting or sheltering

This is where income is allocated or shifted to a taxpayer with the lowest tax rate, or losses to use, and deductions and/or credits are allocated to those in the highest tax brackets. An example of income sheltering is where a non-resident sells credits to a resident because the non-resident has no use for them.

### Income deferral

Income recognition is deferred or smoothed to a year with a lower taxable income. In this way, income is kept under the highest tax rates (this doesn't include the income equalisation scheme).

### Accelerating the use of losses or credits

There may be schemes that artificially bring forward a liability to income tax that is offset against losses or credits. This is commonly used when future shareholder changes may otherwise result in the loss of a company's tax benefit (such as tax losses or imputation credits).

## Using the GAP payment code

If you make payments to us electronically, it's important to code these payments correctly.

The GAP code should only be used when paying GST and provisional tax together. If you're paying them separately, use the GST and INC codes respectively.

Choosing the correct code means there's no delay and the right payment will be credited to the right place. Also you won't receive an incorrect refund.

We're aware that taxpayers often use the wrong code when making these payments directly to us. Doing the above will ensure payments are processed quickly and correctly.

### Creating or inflating expenses

The *Ben Nevis* case is the most well-known example of creating expenses for tax purposes where there is no, or nominal, economic cost. Similarly, some transactions look to inflate the expenses associated with the scheme (to increase the deduction or GST credit claimed).

### Changing the character of receipts or outlays

This occurs where a taxpayer tries to change a transaction's characteristics so that:

- income that would otherwise be liable for tax is exempt, or not within the tax rules
- expenses that would not ordinarily be deductible are changed to something that is.

### GST-specific avoidance

In cases of payments/invoice basis arbitrage, generally the person seeking the credit brings forward their entitlement to claim the credit, while the person liable for the GST defers this for as long as possible. They do this by taking advantage of the timing, structuring around thresholds or using unregistered persons.

Other examples include:

- inflating expenses while avoiding the output liability
- attempted avoidance of the associated persons rules
- avoiding the GST consequences of ending a business or forced sales (eg, under mortgagee sales).

### What you can do to get it right

If you or someone else uses an inappropriate tax structure, or one you think may be inappropriate, you can let us know by making a voluntary disclosure. You can do this by completing the *Voluntary disclosure (IR 281)* form at [www.ird.govt.nz](http://www.ird.govt.nz) (keyword: IR281).

You can also let us know anonymously at [www.ird.govt.nz](http://www.ird.govt.nz) (keyword: anonymous).

## Approved issuer levy (IR 67A) form

Unfortunately in August we issued an incorrect *Approved issuer levy (IR 67A)* form.

If you received one of these forms, you can still use it, but please:

- show gross interest in the "Total interest paid" box (key point 3 on the new form)
- calculate the levy at 2% of the gross interest as you've done in the past
- show the levy figure in the "Approved issuer levy" box (key point 6 on the new form).

If you need help, please call your Large Enterprises account manager. Alternatively you can download the correct form from [www.ird.govt.nz](http://www.ird.govt.nz) "Forms and guides".

## Doing things right when filing returns

When you file a return it's important to provide the correct information, in the right section of the return and for the right return period. It's also important to record the right IRD number on that return.

Completing your returns correctly means:

- your tax records at Inland Revenue will be correct
- debits and credits will be correctly applied to your account
- any refunds due will be processed from the correct account
- you'll avoid penalty and interest charges and late filing fees
- you won't have to waste time resending returns for the correct period

- you won't receive unnecessary letters for failing to file returns or showing debits and credits in the wrong account.

### Checklist for preparing your return

You can avoid mistakes and rework, which in turn will save valuable time, by:

- using the correct IRD number, tax type and period end date
- adding the right information for the period you're filing for
- checking everything is correct before pressing the "send" button if you file online
- filing all the pages of the return.

If you file returns electronically be sure to record the period **end** date for the return, not the due date or payment date.

### Example

Customer 999-999-999 files GST monthly and is filing for the month of October 2011.

1. GST registration number	999-999-999			
DLN number from paper return	23232323232			
First day of GST period covered by this return	01 Day	10 Month	2011 Year	← This is the start date for the October period
2. Last day of GST period covered by this return	31 Day	10 Month	2011 Year	← This is the end of the October period
This return and payment are due	28 Day	11 Month	2011 Year	← This is the date the return and payment must be made by

If you need help filing your returns electronically, go to our online demonstrations at [www.ird.govt.nz/demo](http://www.ird.govt.nz/demo)

For those of you still filing returns manually, call 0800 443 773 or talk with your account manager.

## ESCT deducted for super paid to benefit funds

All employer superannuation cash contributions, including KiwiSaver and complying funds, paid to defined benefit funds for employees will be liable for ESCT (employer superannuation contribution tax) from 1 April 2012.

The ESCT will need to be calculated:

- at the employee's marginal tax rate, or
- you can treat your employer contribution as salary or wages (with the agreement of your employee).

We'll be updating the online PAYE calculator.

We're working with software developer companies to amend their payroll and related products to enable these changes. If you use a payroll package you'll need to upgrade your software by 1 April 2012.

## Losses extinguished when write-off occurs

Do you have losses to carry forward? If so, you need to know that when a taxpayer has a tax debt written off, and they also have losses to carry forward, those losses are reduced or written off. This ensures they don't benefit twice—once by having the debt written off and again by still being able to carry forward any income tax loss to future years.

Losses are extinguished under sections 177C(5) and (6) of the Tax Administration Act 1994, proportionately to the amount of debt written off. This extinguishing applies when there is a write-off of any tax type except student loan repayment obligations (SLS) or child support (CPR and NCP).

If you think you may have treated a loss case incorrectly, please call us on 0800 443 773 or talk to your Large Enterprises account manager.

## Changes to student loans are underway



The Student Loan Scheme Act 2011 introduced changes that improve the way student loans are managed, repaid and administered.

Most take effect from April 2012, with some

being introduced in April 2013. The following may be useful to know if you process PAYE.

For borrowers living in New Zealand who earn above the pay-period repayment threshold (eg, \$367 weekly), student loan deductions made every pay period will generally be considered to be their repayment obligation, eg, unless there's a significant over- or under-deduction. If there's a significant under-deduction, we can require a catch-up deduction by the borrower's employer to recover the shortfall.

For significant over-deductions, the borrower can either request a refund or have this applied to their loan balance, which may then make them eligible for a 10% voluntary repayment bonus.

This means most salary or wage earners will no longer need an annual square-up via a personal tax summary to determine their repayment obligation.

Borrowers with income from other sources, such as interest, dividends, rental or business income, may still need an annual end-of-year assessment.

Borrowers who earn above the pay-period repayment threshold may apply to be exempt from having repayment deductions if they're a full-time student and expect to earn less than the annual repayment threshold (\$19,084 for the 2013 tax year).

Borrowers with more than one job can apply for a reduced deduction rate for secondary employment if income from their main (highest paying) job is less than the pay-period repayment threshold. Applications can be made online for a reduced rate from March 2012, with deductions to be made from 1 April 2012.

### New student loan repayment codes

If you have employees with student loans, they'll be using an "SL" repayment code with their normal tax code, unless they're exempt. As well as using the standard "SL" repayment code, they may now also need to use the new student loan repayment codes:

- SLBOR – to identify extra repayments the borrower wants to make through their employer
- SLCIR – when we determine that the borrower has a significant under-deduction and needs to make catch-up deductions.

Currently there are borrowers who use the SB or ML tax code from which no student loan is deducted as they earn below the deduction threshold. From 1 April 2012 borrowers who wish to continue to use the SB or ML tax codes must use one of these new codes:

- SB SL
- ML SL.

### Changes to late payment penalties

From 1 April 2012, late payment penalties will be called late payment interest and the rate will reduce from 1.5% to 0.843%. There will be further changes to how this is calculated from 1 April 2013.

### Recalling the entire loan amount

For borrowers who have consistently been non-compliant with their repayment obligation, we may demand full repayment of a student loan, whether or not the entire amount is outstanding.

You can read a summary of the Student Loan Scheme Act 2011 at [www.ird.govt.nz/studentloans/](http://www.ird.govt.nz/studentloans/)

We're working with software developer companies to amend their payroll and related products to enable these changes. If you use a payroll package you'll need to upgrade your software by 1 April 2012.

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## GST treatment of credit card surcharges/fees charged by some retailers

Agreements reached in 2009 between the Commerce Commission and credit card companies allow retailers to make an additional charge or fee (the surcharge) where payment for goods or services is made by credit card. This is charged by some retailers as reimbursement for the fee they're charged by the credit card issuer.

Inland Revenue was asked to consider the correct GST treatment of the surcharge, as the treatment adopted by retailers hasn't been consistent.

We've found that some retailers treat the surcharge as exempt from GST, while others treat it as subject to GST.

We consider that the surcharge is part of the underlying supply and should be treated the same for GST purposes. This means if the underlying supply is subject to GST, the surcharge is also subject to GST.

## Responses to our leasing questionnaire

In our May 2011 *Large Enterprises Update*, we informed you that leasing questionnaires were sent to customers as part of our *2010–11 Compliance focus*. The questionnaire focused on customers in their capacity as “lessees” and was designed to obtain quantitative data on certain lease-related tax risks and areas of interest.

As of October 2011, we had a 92% response rate to the questionnaire. In most cases, the responses have been analysed and the customer notified that the process is now complete.

The responses have given us a better understanding of certain lease transactions and will help us in the future with lease-related issues.

We also received a substantial amount of feedback from customers and tax agents about the questionnaire itself. This feedback will help us refine future questionnaires.

Those who responded will receive a more comprehensive update from us in the near future.

A second phase of the leasing project will be carried out early to mid-2012 targeted at lessors. We’ll contact those customers selected for phase two once the details are finalised.

## Annual imputation return filing

A number of incorrectly completed 2010 imputation returns were filed in March and April this year. Making sure you complete the form fully when filing your return will avoid both an incorrect assessment in the future and incorrect debit assessments.

To show whether the balance is a debit or credit, boxes 42 and 45 on the IR 4 return and boxes 6 and 9 on the IR 4J return must be completed. If these boxes are left blank, they are keyed as debits. The resulting assessments will then differ from what you expected.

### Interim IR 4J – are you completing them?

If you’re sending a letter or email instead of filing an interim *Annual imputation return including FDP account return (IR 4J)* this will result in considerable delays finalising any refunds.

If we get a letter or email providing IR 4J details we have to follow a set process, which takes longer than processing the IR 4J.

Instead of sending an email or letter, complete the interim IR 4J form and attach it to your other documents or correspondence. The IR 4J will be recorded separately from any correspondence, making the process more efficient.

Following the correct process means you or your tax agent will receive refunds much sooner.

## Changing your email address for your newsletter alert

Don’t forget you’ll need to re-subscribe to our newsletter alerts if your email address changes.

To continue to get your newsletter email alert at your new address simply go to our website and:

1. type “subscribe” into the search field
2. select “Subscriptions”
3. choose the newsletter you want to subscribe to
4. type in your old email address and unsubscribe
5. close the acknowledgement window
6. finally type in your new email address and subscribe.

You’ll see a welcome message, which confirms you’ve registered for the selected newsletter.

## International tax gets a new look on our website

Tax pays for the things that make New Zealand such a great place to live and we want to make it easy for people to pay the right amount. One way to do this is to make information easy to find. So we looked at the information on our website about international tax obligations and how we could make it easier for those customers to find what they need.

Have a look and bookmark this page now by going to [www.ird.govt.nz/international/business](http://www.ird.govt.nz/international/business)

People with international tax obligations can be those who:

- are coming to or leaving New Zealand, temporarily or permanently
- live in New Zealand and have overseas income
- live overseas and have income derived from a source in New Zealand
- have a business with international activities, trade or investments.

If you or your group have international tax issues, our website now provides comprehensive information in one place. Here you’ll find out about:

- tax residency and status rules
- business tax obligations where the business operates internationally
- non-resident contractors and entertainers tax rules
- New Zealand tax residents with overseas interests
- overseas residents with New Zealand interests
- tax obligations for people coming to or leaving New Zealand.

