The Bulletin

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CHARTERED ACCOUNTANTS • BUSINESS ADVISORS

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Paying Holiday Pay

Calculating and paying holiday pay is easy when you know what your obligations are and Inland Revenue has some tips to help you work it out.

How To Calculate Holiday Pay

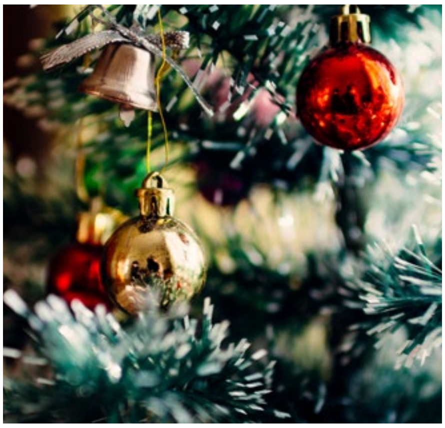
The holiday pay calculation is easy to work out for an employee's annual leave and statutory holidays. You need to include holiday pay as earnings in the period that you pay your employee. If you don't have a payroll package or a payroll provider, there are two ways you can work it out:

- Use your employee's annual entitlement. Currently, employees are entitled to a minimum of four weeks annual leave after being employed by you for a year.
- Use 8% of your employee's gross earnings. You can only use this option if your employee:
  1. Has a fixed-term employment agreement
  2. Is a casual employee
  3. Stops working for you and has only accrued part of their leave entitlement

To see the process in calculating tax on holiday pay, search Inland Revenue's website for "Calculate tax on holiday pay".

Cashing Up Annual Leave

Your employee's can "cash-up" a maximum of one week of their annual leave if you both agree. Cashing up annual holidays can only happen at the employee's request and it must be submitted to you in writing. Employees can request to cash-up less than a week and more than one request can be made until a maximum of one week of annual leave is paid.



Once you have agreed to cash-up a portion of your employee's annual leave, you need to provide the payment as soon as possible, which will usually be the next pay day. The value of the payment must be at least the same as if the employee had taken the holidays.

Payroll Tips For Cashed Up Leave

- Cashed-up annual leave should be treated as an extra pay or unexpected bonus.
- Because it's treated as an extra pay, pay as you earn (PAYE) should be calculated using the rates for lump sum payments.
- If your employee usually has student loan or KiwiSaver deductions made from their pay, deduct these from the cashed-up annual leave as well.
- Your employee's child support liabilities and Working for Families Tax Credits entitlement may also need to be adjusted if their family income has changed.

Employers can't encourage or pressure employees into cashing up leave. Likewise, cashing up can't be raised in wage or salary negotiations or be a condition of employment. Requests to cash-up can't be included in employment agreements, but an employment agreement can outline the process for making a request.

Changes For Motor Vehicles (FBT)

Previously close companies (such as LTCs and QCs) providing a motor vehicle for the private use of shareholder-employees should have paid FBT on the value of the benefit provided. This value was based on the availability of the vehicle rather than its actual private use and meant higher FBT compliance costs for close companies.

New Option For Close Companies

Recently introduced legislation changed this for the 2018 tax year (i.e. from 1 April 2017 for standard balance date taxpayers). Under the new rules close companies which provide one or two vehicles to shareholder-employees can elect to use the motor vehicle expenditure rules instead of paying FBT. This would mean that, like sole traders and partnerships, close companies can measure the business use of a motor vehicle and calculate the tax deductions allowable for motor vehicle expenditure based on business use.

New Method For Calculating Business Use To Claim Deductions

Also introduced is a new simplified method of calculating business use for vehicles. The new option allows you to choose to calculate your business usage and resulting deductible expense differently. The new method does not have a ceiling (previously the ceiling in place was 5,000 kilometres of business use).

What You Need To Know

If you are self-employed or if you operate through a close company and this applies to you, you would need to know the total mileage travelled each year and be able to work out what proportion of that is business use.

The actual requirement would be for you to keep a vehicle logbook for three months every three years.

When it comes to calculating the tax deductible amount, the calculation is 'two tier':

- for the first 10,000 kilometres, the rate is calculated on the proportion of business use for the vehicle (say 60%) multiplied by Inland Revenue's first tier rate (for example 75 cents/km but the IRD will advise the rates each year)
- for every kilometre after that, the rate is calculated on proportion of business use for the vehicle (e.g. 60%) multiplied by Inland Revenue's second tier rate (for example 25 cents/km but again subject to change)

What You Need To Do

To gear up for the change, at close of business on 31 March, record your odometer reading. Diarise to do the same thing next year. You want to be able to tell us the total number of kilometres travelled in the tax year when you bring in your records. And, sometime during the year starting 1 April 2017, keep a logbook for each vehicle for a three-month period to record mileage, costs and when the vehicle is being used for business or private purposes.

If you're in any doubt as to whether this affects you please **contact our team.**

GST Made Easy

Do you hate it when GST return time rolls around? If so, you're in good company. For many business owners, the pain isn't so much having to hand money over to IRD, but having to prepare and file a return.

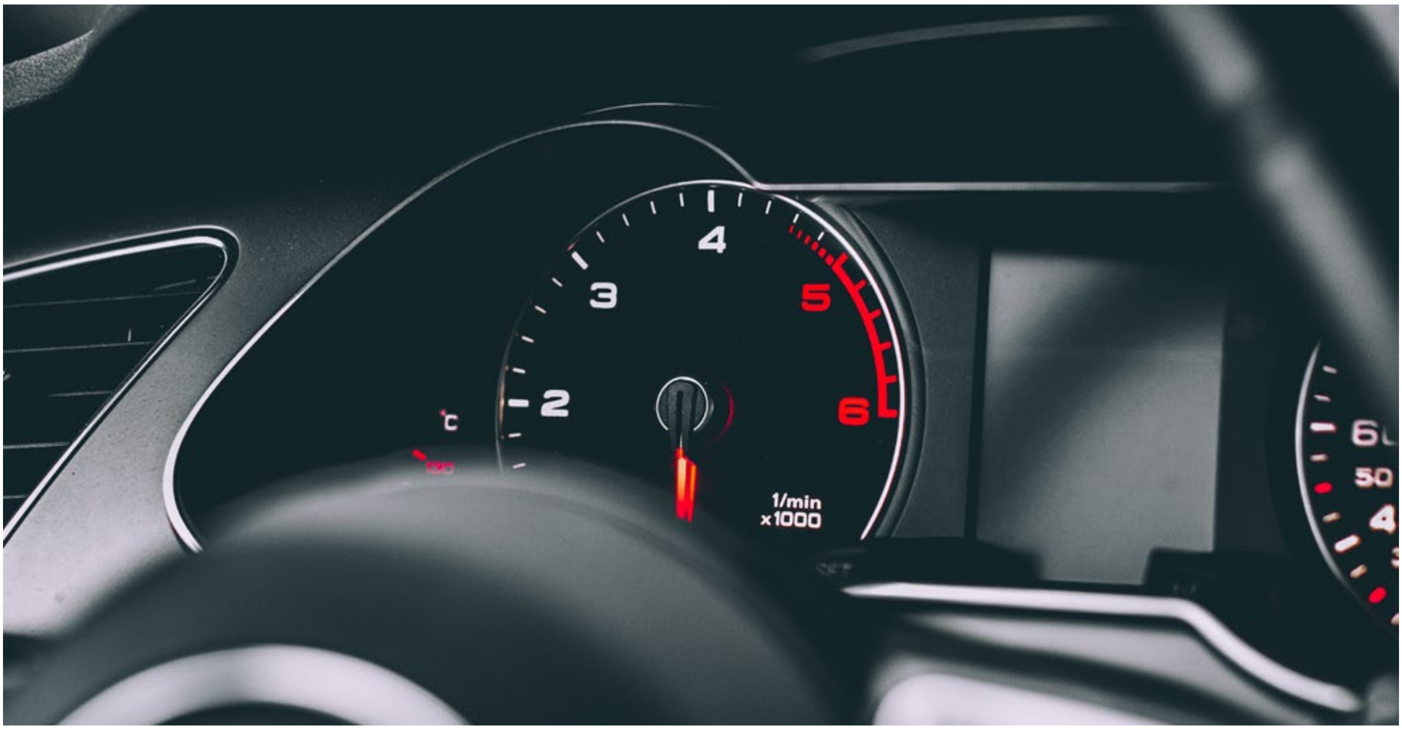
But that pain is easy to avoid.
Here's how:

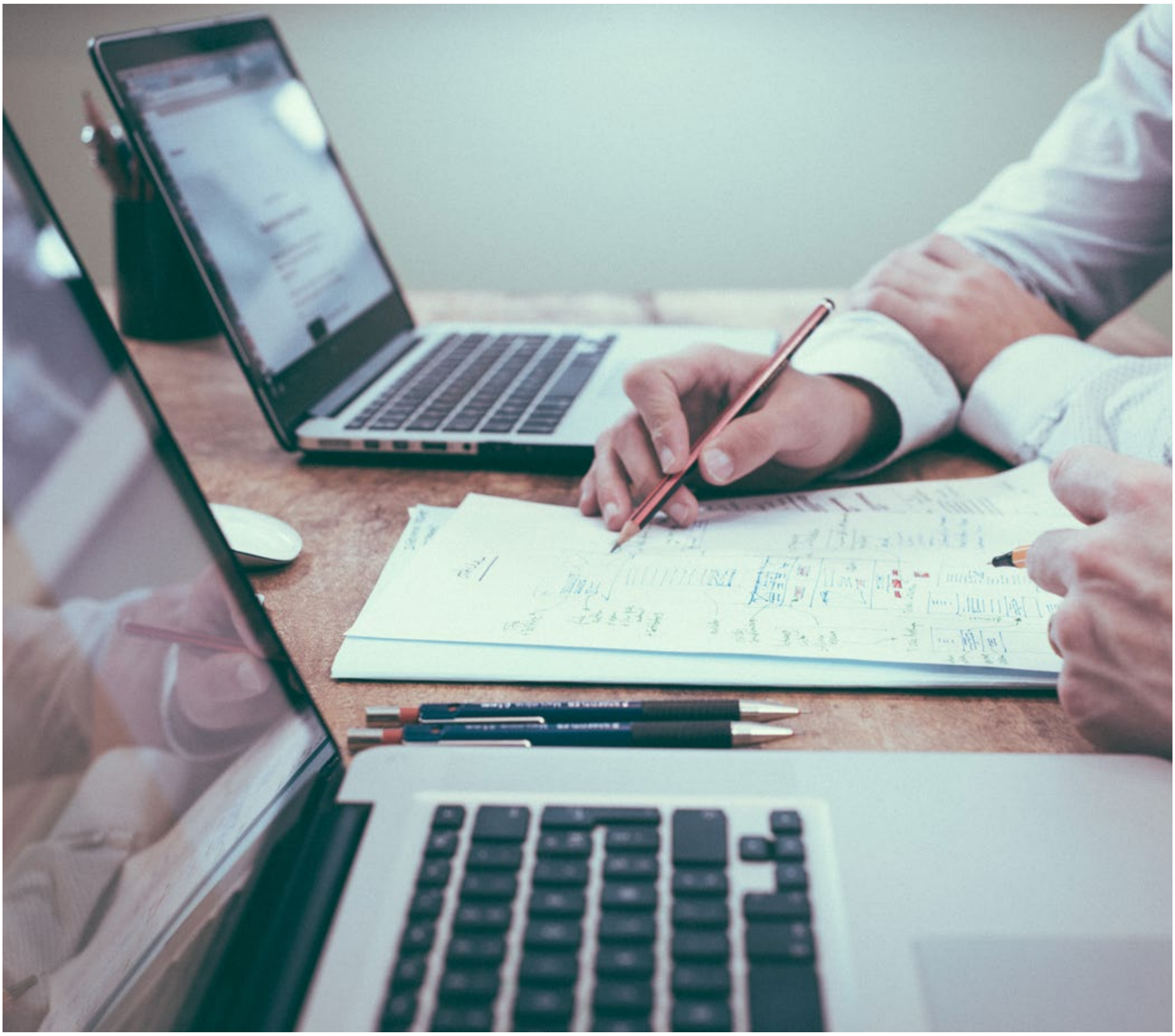
- If we complete your returns, of course everything will be done for you
- If you still file your returns manually – register for a myIR account **here**.
- If you are GST registered and we don't prepare your returns for you, you may need to check your bank account details. The easiest way to do this is via your myIR account.

The section inside your myIR account called "My GST" lets you:

- Pay your GST when you file your return
- Set up email or text reminders
- Propose a GST instalment plan if you can't pay in full by the due date
- Ask for amendments to previously filed returns
- Check statements, and breakdowns of transactions
- Upload files with your GST return.

Don't have GST drag you or your business down. If you struggle with any part of it, or are unsure about anything, **contact us.**





Inland Revenue Happenings

Inland Revenue is in the process of making some changes we thought you should know about. It is important you read about these changes as they will help ensure you file returns and make payments on time.

No Bank Account Number, No Refund

Inland Revenue has indicated to us that in the very near future, any refunds due to taxpayers will only be paid by direct credit. Therefore, if you are due a refund and Inland Revenue does not have a bank account number on record, you will need to ring Inland Revenue with a bank account number before they will give you the refund.

Only in very exceptional circumstances will a refund be paid by way of cheque.

If you currently receive refunds via cheque please contact our office with your bank account details so we can notify IRD. This will ensure there is no delay in Inland Revenue paying any refunds owing to you.

Overdue Payment And Return Letters

Over the last six months, we have seen an increase in the number of letters Inland Revenue has sent to clients advising that a return or payment has not been received by the due date. In the majority of cases, the return or payment has been received, but not processed, by Inland Revenue by the due date. Inland Revenue's IT systems have been "too efficient" in these instances and sent out overdue letters. This has resulted in time being wasted by our clients and us.

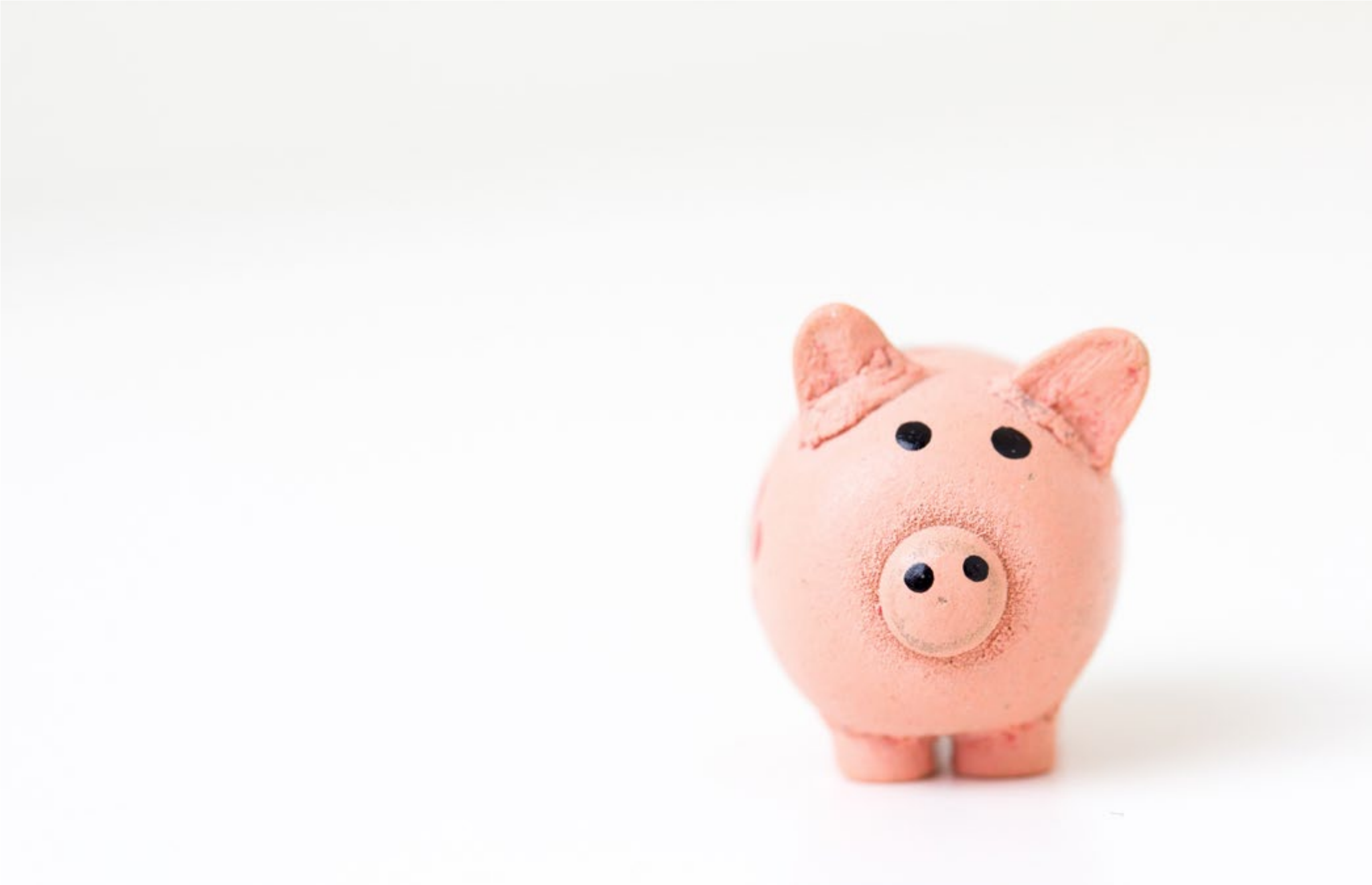
This issue, generally, occurs when a return is filed or payment made, manually, close to the due date.

Inland Revenue has advised that they are changing their systems to ensure letters are not generated when GST returns and payments are filed manually. An indicator is going to be put in the system at the time a return or payment has been received by Inland Revenue, even if it has not been processed.

Time To Start Using myIR?

It is evident from the above changes that Inland Revenue is wanting taxpayers to move to electronic means when making payments and filing returns. If you have a myIR account with Inland Revenue, it will allow you to file some returns electronically and setup direct debits for GST payments.

If you would like assistance in setting up a myIR account please **call us.**



Provisional Tax and Use of Money Interest (UOMI) Changes

From the 2018 financial year, legislative changes have been made to how use of money interest (UOMI) applies to provisional taxpayers. These changes are taxpayer friendly as it will mean fewer taxpayers are subject to UOMI and, for those who are still subject to UOMI, the date at which UOMI starts accruing may be later.

The changes can be summarised as follows:

- the residual income tax (RIT) threshold at which UOMI applies for individuals has increased from $50,000 to $60,000
- the RIT threshold at which UOMI applies for non-individuals (companies and trusts) has increased from $2,500 to $60,000
- the date from which UOMI starts accruing has been moved from the first provisional tax instalment date to the final provisional tax instalment date for all taxpayers who use the standard uplift method (i.e. provisional tax is paid based on the previous years' tax payable) for all but the final instalment of provisional tax and whose 'provisional tax associates' also use the standard uplift method.

It should be noted that if a taxpayer (or a provisional tax associate) estimates their provisional tax at any time before the final provisional tax instalment date, UOMI will be charged from the first provisional tax instalment date. This is irrespective of the taxpayer's level of RIT.

So Who Is A Provisional Tax Associate?

A company is only a provisional tax associate of another company if the companies are 100% commonly owned.

A company is only a provisional tax associate of a person other than a company if the other person has a voting interest in the company of 50% or more.

What Does This Mean For You?

If your taxable income does not vary significantly from year to year – you should pay provisional tax based on the uplift method to avoid accruing interest from the final instalment date, if at all. This is a much later date than under the previous rules and will likely result in less UOMI interest being payable.

If your taxable income increases significantly from the previous year – you should pay provisional tax based on the uplift method for your first two instalments. UOMI will only be charged, if at all, from the final instalment date. This is a much later date than under the previous rules and will likely result in less UOMI interest being payable. There is usually no benefit under the new rules in paying more provisional tax to Inland Revenue than Inland Revenue is expecting. However, taxpayers in this situation need to ensure that they have kept aside enough funds to cover the additional tax that will be payable on the final instalment.

If your taxable income decreases significantly from the previous year – if you know that your income will be significantly lower than the previous year, you can file an estimate with Inland Revenue in order to pay the lower amount. However, this will result in UOMI accruing from the first provisional tax instalment date. As long as the estimate is reasonably accurate, the additional UOMI payable is likely to be insignificant.

If you have any questions or wish to discuss this further please **contact us.**

Several Ways Taxpayers Can Get Caught Out

Taxpayers who earn income from various sources may get caught short if they don't plan ahead. This could come about in various ways:

- Airbnb
- Overseas rental properties
- Overseas trusts
- Shares in an overseas company

Airbnb Income

If you rent rooms or homes through Airbnb, you may not realise that Inland Revenue considers you to be a landlord and your rental income must be included in a tax return.

If you're unsure of your tax obligations please consider seeking our professional advice.

Overseas Rental Property

If you are a New Zealand tax resident, then you must declare in your tax return any rental income you derive from overseas properties. You can claim deductions for rental-related expenses, and you may also be able to claim a credit for tax paid in the other country.

Further complexities can arise if loans and mortgages are held overseas.

Please **call us** if this applies to you.

Overseas Trusts

Under New Zealand law, trust income tax matters are settlor-based. This means New Zealand tax treatment of the trust depends on where the settlor of the trust lives. As a trust does not have a legal personality, there is no concept of residency for trusts.

However, a trust is recognised as a taxpayer, so New Zealand generally verifies the residency of the settlor to determine which income of the trust is subject to New Zealand tax.

If You Own Shares In A Foreign Company

You will have to pay tax in New Zealand on dividends derived from foreign shares unless:

- you are a transitional resident, or
- you are a non-resident of New Zealand, or
- the shares are subject to the foreign investment fund or controlled foreign company rules.

The rules surrounding Foreign Investment Funds and Controlled Foreign Companies are complex and you should seek professional advice on the taxation of offshore investments.

Changes to Farm Dwelling Expenditure

On 23 March 2017 Inland Revenue finalised interpretation statement 17/02 Income Tax – Deductibility of Farmhouse Expenses. This interpretation statement changed how farm dwelling expenses are claimed for income tax purposes and how much can be claimed for GST purposes. This interpretation statement applies from the beginning of the 2018 income year. This means for March balance dates, from 1 April 2017, May balance dates, from 1 June 2017 and for June balance dates, from 1 July 2017.

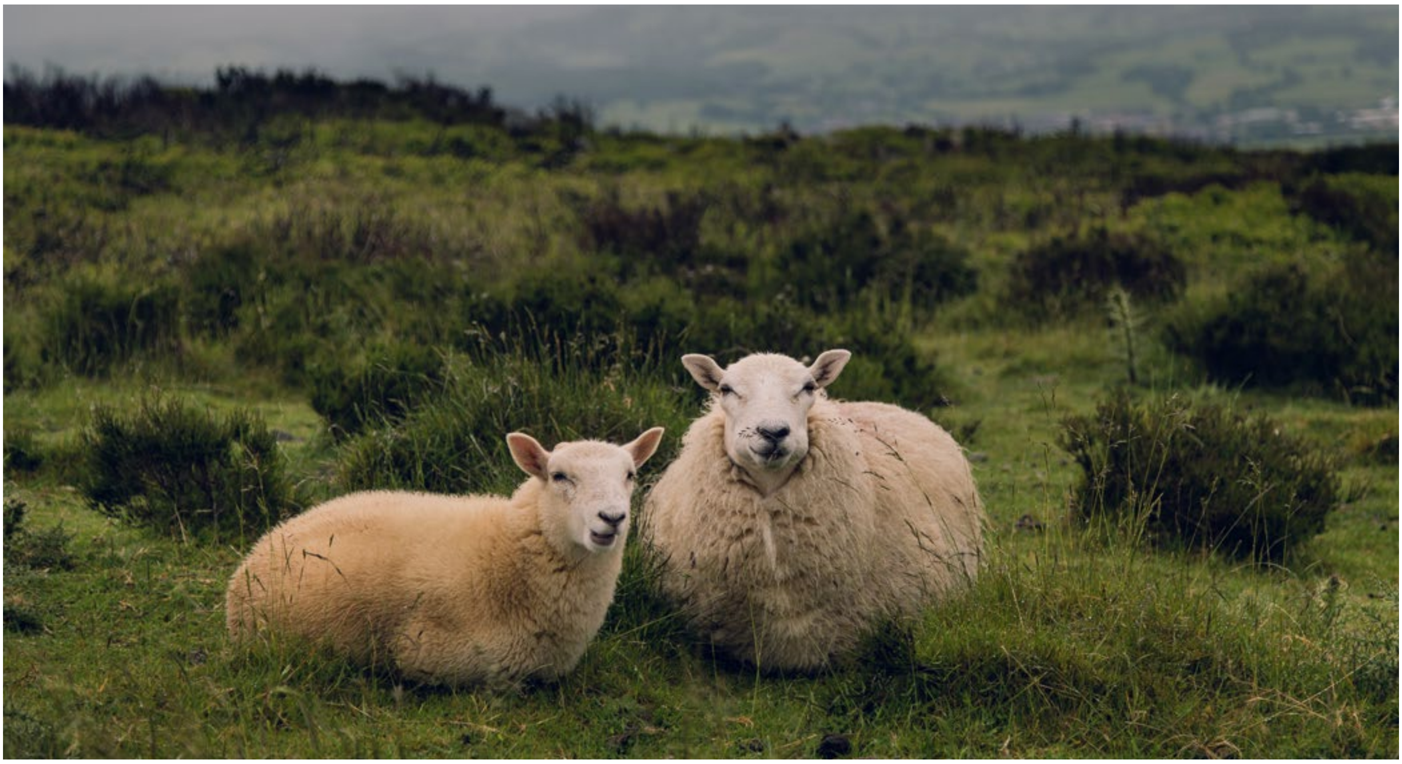
Under Inland Revenue's previous rules farmers were, generally, entitled to claim full income tax deductions for both rates and interest payable on farm loans, despite the fact a proportion of these expenses relate to the farm dwelling. Furthermore, Inland Revenue has allowed farmers an income tax deduction and GST claim equal to 25% of expenditure incurred in relation to the farm dwelling, for example, electricity and dwelling repairs (special rules can apply to companies and trusts).

Under the announced changes, farmers are classified into Type 1 (essentially larger farms) and Type 2 farms (essentially smaller farms). Where the value of the farm dwelling (including curtilage and improvements) is 20% or less of the total value of the farm, the farm is a Type 1 farm otherwise it is a Type 2 farm. The Commissioner will accept the following as a reasonable estimate of the value of the farm:

1. Rateable value - however, the usefulness depends on the circumstances as the value of the dwelling may not be readily available.
2. Bank valuation or real estate agents appraisal - however, a formal valuation will be appropriate if a farm is on the borderline of both Type 1 and 2.
3. Cost - if the relative costs are comparable and contemporaneous e.g. the cost of a farm in 1990 and the cost of a new farmhouse in 2010 are not comparable or contemporaneous The below table summarises the income tax treatment of dwelling expenditure for each type of farm:

Under the changes, Type 2 farms will no longer be able to claim 100% of any loan interest or rates in relation to the farm dwelling and must substantiate the claim for other dwelling expenses for income tax purposes. This will require Type 2 farms to calculate how much of the farm dwelling is used for business purposes (for example on a time and area basis) and claim a proportion of dwelling expenses (loan interest, rates, electricity and repairs) on that basis. Type 2 farms operating in a partnership or sole trader structure will be able to claim GST on farm dwelling rates, electricity and dwelling repairs to the extent of this same percentage. For companies the rules remain unchanged for dwelling repairs and maintenance expenditure ie there is no GST claim. For example, if, based on an area and use basis, a Type 2 farmer (in a partnership structure) uses 10% of the dwelling for business purposes (i.e. a home office), then for GST purposes they would claim 10% of repairs and maintenance, electricity and dwelling rates.

Farm Type	Interest & Rates Charges	General Dwelling Expenses	Fixed Line Charges
Type 1 Farms (Large)	100% deduction for interest & rates expenses	Dissection where possible, then 20% deduction unless a larger claim can be substantiated.	50% of telephone rental charges used for both business & private purposes unless a higher claim can be substantiated.
Type 2 Farms (small)	Dissection where possible, then apportion between farm & dwelling on a fair & reasonable basis.		Same as above.



Larger farms (Type 1) will still be able to claim 100% of loan interest & rates. However, for other dwelling expenses only 20% can be claimed for income tax and GST purposes, unless a larger claim can be substantiated.

This could be done by using the same approach for Type 2 farms in determining the percentage of the dwelling used for business purposes. Again, there is no change for a company's dwelling repairs and maintenance expenditure for GST purposes, ie there is no GST claim.

From a GST perspective this affects you now!

What Do You Need To Do?

1. Every farmer needs to first establish if they are Type 1 or 2. This is done by using one of the three methods outlined above; rateable value, valuation or cost.

   Where the distinction between Type 1 and 2 is very close a market valuation may be required.

   After completing Step 1 you are classified as either a:

   Type 1 farm i.e. larger farm where the farm dwelling's value is less than 20% of the total farm's value; or

   Type 2 farm i.e. small farm where the farm dwelling's value is more than 20% of the total farm's value.

2. If you are Type 2: farmers must undertake a "home office" calculation like any other taxpayer who carries on their business from home. This calculation must be based on the actual use of the farmhouse (for example, on a time and space basis), regardless of whether there is a dedicated home office or different parts of the house are used in the business.

   Laundry and garage areas which are typically used to store farm clothing and equipment should also be taken into consideration when determining the area used for business purposes.

3. GST can be claimed on farm dwelling expenses based on the table below.

For GST purposes these new rules apply from the beginning of the 2018 income year.

These rules are complicated and you may need assistance from us. Please contact us if you would like us to help you with this.

Alternatively, we can calculate the correct percentage GST claim when we complete your 2018 financial statements. However, it is likely that the amount of GST claimed throughout the year will be higher than what you are entitled to claim. This will result in having to pay back GST. We recommend you review the amount of farm dwelling expenses being claimed for GST to avoid having to pay back a large amount to Inland Revenue.

<table>
<tr><th>Entity Structure</th><th>Expense Type</th><th>Type 1
GST Claim Percentage</th><th>Type 2
GST Claim Percentage</th></tr>
<tr><td rowspan="4">Sole Trader</td><td>Dwelling portion rates</td><td>100%</td><td rowspan="3">Calculated Dwelling %</td></tr>
<tr><td>Dwelling R & M</td><td>20%</td></tr>
<tr><td>Dwelling electricity</td><td>20%</td></tr>
<tr><td>Phone – fixed line charge</td><td>50%</td><td>50%</td></tr>
<tr><td rowspan="4">Partnership</td><td>Dwelling portion rates</td><td>100%</td><td rowspan="3">Calculated Dwelling %</td></tr>
<tr><td>Dwelling R & M</td><td>20%</td></tr>
<tr><td>Dwelling electricity</td><td>20%</td></tr>
<tr><td>Phone – fixed line charge</td><td>50%</td><td>50%</td></tr>
<tr><td rowspan="4">Company</td><td>Dwelling portion rates</td><td>100%</td><td>0%</td></tr>
<tr><td>Dwelling R & M</td><td>0%</td><td>0%</td></tr>
<tr><td>Dwelling electricity</td><td>20%</td><td>Calculated Dwelling %</td></tr>
<tr><td>Phone – fixed line charge</td><td>50%</td><td>50%</td></tr>
<tr><td rowspan="4">Trust</td><td>Dwelling portion rates</td><td>100%</td><td>0%</td></tr>
<tr><td>Dwelling R & M</td><td>If a rental is charged - 0%
If no rental is charged - 20%</td><td>0%</td></tr>
<tr><td>Dwelling electricity</td><td>20%</td><td>Calculated Dwelling %</td></tr>
<tr><td>Phone – fixed line charge</td><td>50%</td><td>50%</td></tr>
</table>

Note: for the calculated dwelling % refer to point 2 above.

NZ Trust Law to be Overhauled

Parliamentary plastic surgery is in store for the Trustee Act, to make trust law easier to access and understand.

On 1 August, previous Justice Minister Amy Adams introduced the Trusts Bill to Parliament. This will be the first significant change since the introduction of the Trustee Act 1956.

The old Act has been viewed as being narrow in scope, with trust administration being complicated and expensive.

Most trusts, like family trusts, business trusts and protective trusts, are set up with a trust deed or other document, like a will. These are known as express trusts.

In the new Bill, it expressly states that trustees will have to:

- Know the terms of the trust
- Act according to the terms of the trust
- Act honestly and in good faith
- Hold trust property
- Act for the benefit of the beneficiaries or the permitted purpose
- Exercise trustee powers for a proper purpose.

Although a trustee must not use a trust for self-benefit or act where there is a conflict of interest, many trust deeds specify situations in which a trustee can act in their own interest, such as when a trustee is also a beneficiary.

The Bill does not address relationship property issues, which will be considered as part of a broader review of relationship property law, by the Law Commission.

There should also be no need to change existing family trusts, as the new Act will largely restate existing law.

A New Process For Disclosure

The draft Bill includes a process for disclosure of trust information. This includes the trust deed, documents relating to the property and administration of the trust, and other information holding trustees accountable. Trustees will have some flexibility with disclosure, but the Bill favours keeping beneficiaries informed.

Exceptions For Specified Commercial Trusts

If a specified commercial trust arrangement was created before the beginning of the Act, it will be exempt from some provisions. That could reduce the need to amend existing terms, like trustees keeping particular information and providing certain information to beneficiaries.

Specified commercial trusts created after the beginning of the Act will be able to modify or exclude particular provisions, like preventing beneficiaries terminating the trust by unanimous consent where that would run across financing arrangements made to protect the rights of lenders and borrowers.

The FMCA And Trusts

Particular express trusts subject to the requirements of the Financial Markets Conduct Act are not subject to some of the Bill's requirements. The FMCA is to be amended to reflect the Bill's wording with regard to various duties relating to the functions of supervisors and managers.

If you would like to discuss what a trust would entail or what your responsibilities might be as a trustee, contact us.

What Does All This Mean For You?

Quite possibly, little or nothing. But if you've had a trust quietly ticking away in the background for some years, it could mean a lot. Our advice is to get in touch with us to discuss your trust and any possible impact. A few minutes doing this now could save a lot of pain later.

Wishing you a safe and happy holiday from us all.

Our office will close at 2pm on Friday 22 December and reopen in the New Year on Monday 15 January.
If you have any urgent GST or payroll queries during this period please email **vicki.worker@nla.net.nz.**

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