

10 February 2009

A special report from the
Policy Advice Division of Inland Revenue

Business Tax Measures included the Taxation (Business Tax Measures) Bill

The Taxation (Business Tax Measures) Bill gives effect to several changes that were part of a recently announced package of measures aimed at improving the business environment for small and medium enterprises – particularly in terms of easing the impact of taxes on businesses’ cash flows and reducing business tax compliance costs.

The package also included reductions in the use of money interest (UOMI) rates for underpayments and overpayments of tax and the fringe benefit tax prescribed interest rate applying to low-interest, employment-related loans. These changes were the subject of Orders in Council signed on 2 February 2009.

Detailed analysis

Introduction of a new threshold of \$10,000 below which all business-related legal expenditure is fully deductible (to apply from the 2009/2010 income year) *(Clauses 4 and 22)*

The bill introduces new section DB 62 into the Income Tax Act 2007 (ITA) to simplify the rules for deducting legal expenditure. This change allows businesses an immediate tax deduction for business-related legal expenditure, up to \$10,000 a year, without having to distinguish between revenue and capital. This will reduce tax compliance costs and tax liabilities.

For example, if a business’s total bill for all legal fees in a given income year is \$10,000, the entire amount will be deductible without requiring analysis of which amounts relate to non-deductible capital expenditure and deductible revenue expenditure. However, when a business’s total bill for all legal fees in a given income year is \$20,000, normal tax rules will apply and capital and revenue amounts must be separately identified for the full \$20,000.

The bill also introduces a definition of “legal expenses” in section YA 1 of the ITA for this purpose.

Higher low-value trading stock threshold (to apply from the 2009/2010 income year)
(Clause 5)

The bill amends section EB 23 of the ITA to raise the threshold for low-value trading stock from \$5,000 to \$10,000 (based on the value of the trading stock). This change will reduce record-keeping for businesses and the amount of time that must be spent each year counting and valuing stock.

This proposal was originally included in the Taxation (International Taxation, Life Insurance and Remedial Matters) Bill (“the July 2008 tax bill”), introduced in July 2008 and currently before Parliament, but has been brought forward for inclusion in this bill, to apply from the 2009/2010 income year.

Accounting for financial arrangements (to apply from the 2009/2010 income year)
(Clauses 6 - 14)

The bill amends sections EW 13, 17 and 25 of the ITA to:

- allow non-individuals, subject to certain thresholds, to be able to return income tax in relation to financial arrangements on a cash accounting basis; and
- allow more taxpayers to be able to use the straight-line basis for accounting for financial arrangements by increasing the existing threshold for this from \$1.5 million to \$1.85 million (based on the total level of financial arrangements).

The bill also amends the definition of “cash-basis” person in sections EW 54, 56-58 and 60 of the ITA, and amends section EW 59 of the ITA to provide for associated persons.

These proposals were included in the July 2008 tax bill but have been brought forward for inclusion in the present bill, to apply from the 2009/2010 income year.

Higher Pay As You Earn (PAYE) once-a-month filing and payment threshold (to apply from 1 April 2009)
(Clause 15)

The bill amends section RD 22 of the ITA to raise the PAYE once a month filing and payment threshold from \$100,000 to \$500,000.

Under current law, when prior year total PAYE deducted for all employees is \$100,000 or more, the employer must pay it to Inland Revenue twice a month. Under the proposed change, when total PAYE deducted is less than \$100,000, the employer must account for PAYE once a month. This change will significantly increase the number of businesses that can benefit from the increased cash flows that arise from paying PAYE only once a month. Employers that are above the current threshold but below the new threshold can still pay twice-monthly if that better suits their business needs.

The proposal to raise the threshold from \$100,000 to \$250,000 was included in the July 2008 tax bill but has been raised to \$500,000 for inclusion in this bill, with application from 1 April 2009.

Higher thresholds under which FBT is not required to be accounted for in respect of minor unclassified benefits provided to employees (to apply from 1 April 2009)

(Clauses 16 and 17)

The bill amends sections RD 45 and 46 of the ITA to raise the thresholds for exempting minor benefits from FBT from \$15,000 per annum per employer and \$200 per quarter per employee to \$22,500 and \$300 respectively.

This change means that fewer employers will be required to return FBT in respect of minor unclassified benefits (such as flowers and chocolates) provided to employees.

Extension for FBT annual filing (to apply from 1 April 2009)

(Clause 18)

The bill amends section RD 60 of the ITA to further broaden annual filing for FBT to include closely held businesses whose FBT liabilities are restricted to one or two vehicles used by owner-employees, regardless of their annual PAYE deductions. This amendment will ease cash flow and reduce compliance costs.

This amendment was included in the July 2008 tax bill and has been brought forward for inclusion in this bill, to apply from 1 April 2009.

Higher FBT annual filing threshold (to apply from 1 April 2009)

(Clause 19)

The bill amends section 61 of the ITA to raise the FBT annual filing threshold from \$100,000 to \$500,000.

Under current law, when prior year total PAYE deducted for all employees is \$100,000 or more, an employer providing fringe benefits to employees must account and pay for FBT to Inland Revenue quarterly. When total PAYE deducted is less than \$100,000, the employer can pay and file annually instead.

This change proposed in this bill will mean that fewer FBT returns and payments will need to be filed by small businesses, thereby easing cash flows and reducing compliance costs for eligible employers.

The proposal to raise the threshold from \$100,000 to \$250,000 was included in the July 2008 tax bill. However, the government decided to increase the threshold to \$500,000. The new proposal has been brought forward for inclusion in this bill, to apply from 1 April 2009.

Reduction in the provisional tax uplift rate (to apply from 1 April 2009 to provisional tax payments for the 2008/2009 and 2009/2010 income years payable after this date)

(Clauses 20 and 21)

The bill amends sections RZ 3 and RZ 5 of the ITA to reduce the standard method uplift for the calculation of provisional tax liability for the 2008/09 and 2009/10 income years.

Provisional tax is based on payments of tax being made during the income year. One of the methods of calculating provisional tax is by basing it on taxpayers' residual income tax (RIT) from prior years, specifically by assuming that it is either:

- 105% of the previous year's RIT; or
- 110% of the next preceding year's RIT (for taxpayers that have not yet furnished their previous year's income tax return).

The bill reduces the "uplift" rate to reflect that profits are likely to be reduced in the 2008/2009 and 2009/2010 income years. Accordingly, the 105% and 110% uplift will be temporarily reduced to 100% and 105% respectively for remaining provisional tax payments due in respect of the 2008/2009 and 2009/2010 income years.

In addition, while 30% rate taxpayers¹ are currently allowed to use uplift ratios of 95% or 100% (as a result of relief provided following reduction of the company tax rate from 33% to 30%), changes in the bill will allow these entities to use new, lower, uplift ratios of 90% or 95% for the 2008/2009 and 2009/2010 income years.

These changes will reduce the magnitude of taxpayers' provisional tax payments, providing them with greater cash flows over the next two years (as a result of lower provisional tax payments). The standard uplift rates of 105% and 110% will apply again in the 2010/2011 tax year.

Higher provisional tax use of money interest (UOMI) safe harbour threshold (to apply from the 2009/2010 income year)

(Clause 23)

The bill amends section 120KE of the Tax Administration Act 1994 to allow more individual taxpayers to use the standard uplift method of calculating provisional tax rather than estimating, thus reducing compliance costs for those taxpayers and reducing their exposure to use-of-money interest.

This proposal was included in the July 2008 tax bill and has been brought forward for inclusion in this bill to apply from the 2009/2010 income year.

¹ Taxpayers on a 30% tax rate include companies, some portfolio investment entities and certain trusts. A portfolio investment entity includes certain managed funds and savings vehicles.

Higher Goods and Services Tax (GST) six-monthly return filing threshold (to apply from 1 April 2009)
(Clause 25)

The bill amends section 15 of the Goods and Services Tax Act 1985 (“the GST Act”) to increase the threshold below which GST returns can be made six-monthly from \$250,000 to \$500,000 of taxable supplies. Taxpayers with more than \$500,000 of taxable supplies are required to make two monthly GST returns. Taxpayers with highly seasonal activities, as well as small businesses, may find this helpful.

This proposal was included in the July 2008 tax bill and has been brought forward for inclusion in this bill to apply from 1 April 2009.

Higher GST payments basis threshold (to apply from 1 April 2009)
(Clause 26)

The bill amends section 19A of the GST Act to raise the threshold below which GST may be accounted for on a payments basis from \$1.3 million to \$2 million of taxable supplies. This change will allow more taxpayers to account for GST on a payments basis and may assist cash flows as GST will generally only need to be accounted for on receipt of funds rather than on issue of an invoice. Using the GST payments basis will still be optional for taxpayers.

It is estimated that by raising the GST payments basis threshold to \$2 million, an extra 14,000 businesses will be able to access this method of accounting for GST.

Higher GST registration threshold (to apply from 1 April 2009)
(Clause 27)

The bill amends section 51 of the GST Act to raise the GST registration threshold from \$40,000 to \$60,000 of taxable supplies. This change will mean that those under the threshold can opt out of the GST system, resulting in a reduction in their GST compliance costs and easing cash-management problems associated with making GST payments.

The July 2008 tax bill proposed to raise the threshold from \$40,000 to \$50,000. The government decided to increase the threshold to \$60,000. The threshold change was brought forward for inclusion in this bill to apply from 1 April 2009.

Minor remedial matters (various application dates)
(Clauses 29 to 32)

The bill contains a number of minor remedial matters relating to changes made by the Taxation (Urgent Measures and Annual Rates) Act 2008. They amend sections RD 50, 52 and 53 of the Income Tax Act 2007 and section 3 of the Tax Administration Act 1994.