

Tax Talk | July 2018

When your home is your place of Business

A new method is available for calculating deductions for home office expenses. From the 2017-2018 income year, taxpayers will now be able to use the “square metre rate method” as an alternative to calculating a portion of actual expenses in determining their claim for home office expenses. The square metre rate method uses the prescribed Inland Revenue rate of \$41.10 per square metre.

Previously, taxpayers were only able to claim a portion of actual expenses where the family home was partly used for business purposes. While sounding simple, in practice, making an appropriate apportionment calculation was often difficult.

On a practical level, we consider that the square metre rate method is simple and easy to implement. In calculating the deduction, the square metre rate method still requires the taxpayer to determine the area of the building used separately for business purposes; this is then multiplied by the single rate set by Inland Revenue.

If you are interested in finding out more information concerning apportionment issues and quantification, please contact your Baker Tilly Staples Rodway advisor.

Recap of changes to the non-resident withholding tax regime

The new non-resident withholding tax (**NRWT**) regime was enacted over a year ago on 30 March 2017. This reform addresses “holes” in the NRWT regime and has had a significant impact on companies with cross-border debt.

The key amendments were:

- ensuring that an NRWT liability arises on interest on related party debt at approximately the same time that an income tax deduction is available to the borrower for that interest. This is achieved by way of the “deferral calculation” (see below)
- changing the application of the NRWT rules for branch structures

The changes apply to all new arrangements entered into after 30 March 2017. For existing arrangements these rules apply:

- to the 2017-18 year onward after balance dates between 31 March 2017 and 30 September 2017
- to the 2018-19 year, for balance dates after 30 September 2017

The mechanism used to ensure a matching of NRWT payments with interest deductions is called the deferral calculation.

What is the deferral calculation?

Under the old rules, NRWT liability was imposed when interest was “paid”, and this may be significantly later than when the interest was accrued and deducted. A typical example of this is the interest paid on the maturity of a zero-coupon bond. Another example relates to the deduction of interest and the crediting of that interest to a general accrual account.

The new NRWT regime removes the timing benefits by introducing the concept of non-resident financial arrangement income (**NRFAI**) and a deferral calculation requirement. Under the new rule, the borrowers must complete the deferral calculation for each related party debt from the end of the second year following creation of a financial arrangement.

This deferral calculation will determine whether the offshore lender has derived NRFAI, and whether NRWT will be required to be withheld. The deferral calculation compares the accumulated interest payments and the accumulated accruals for each related party debt at the end of each income year. Where the level of deducted interest exceeds the level of interest paid by a specified threshold (broadly 90%), NRFAI is deemed to arise and NRWT is payable. In respect of all interest deducted.

The New Zealand borrower may be exempt from applying this deferral calculation if the New Zealand borrower’s expenditure on related party debt in the previous year is below the \$40,000 de minimis threshold.

Please contact your usual Baker Tilly Staples Rodway advisor if you would like to discuss any of the above.

Tax Policy Work Programme

Inland Revenue released the 2018-19 Tax Policy Work Programme as part of the 2018 budget. The Work Programme takes into consideration recent developments and progress on projects from the previous Work Programme. The areas covered include the following:

Government priorities, coalition, confidence and supply agreement items

- **Research and Development (R & D) tax credit** – See prior Tax Talk.
- **Ring-fencing rental losses** – See prior Tax Talk.
- **Penalties** – Developing an optimal regime to maximise compliance and to address corporate fraud and evasion.
- **Small business tax issues including compliance costs** – Introduce a range of compliance cost reduction measures.

Enhancing tax policy within broad-base and low-rate tax settings

- **Feasibility and black hole expenditure** – Review rules on deductions for costs related to undertaking feasibility studies and other possible black hole expenditure
- **Treatment of losses** – Consider the tax treatment of carrying forward losses when business ownership changes
- **FBT on employment related loans** – Reviewing the legislative definition of the market interest rate as it is out-dated and results in over-taxation of loans to employees of banks and other money lending institutions.
- **Cross-border employment** – Reduce compliance costs generated from the rules/requirements for employees going across borders.
- **Purchase price allocation** – Vendors and purchasers are sometime adopting different valuations for the same assets in a sale. This inconsistency means that the intended tax outcome may not be achieved.
- **Charities and not-for-profit organisations** – Reviewing the appropriateness of the tax exemption for significant businesses associated with charities, and reducing the compliance costs experienced by small charities.
- **Financial arrangement issues** – Remedial and policy enhancements to ensure these rules are working as intended.
- **GST policy** – A discussion document containing proposals on various GST policy issues is proposed for release mid-year.

International tax, base erosion and profit shifting

- **Digital economy** – Consideration of measures New Zealand may look at in response to concerns with the expansion of the digital economy.
- **Double Tax Agreement (DTA) work programme** – New Zealand is seeking to establish new and updated DTAs with a number of countries, including China, Hong Kong, Korea and Fiji.

- **Multilateral instrument** – Taken up, as part of BEPS, which amend the DTAs of participating countries. This includes treaty shopping and permanent establishment avoidance.

Business transformation and better public services

- **Individuals' taxation** – Improving the tax systems for individuals, including collection of information, pre-population of income information and more efficient debt collection process.
- **Business taxation** – Improving tax system for business, including reduce compliance cost and simplifying tax system.

The full work programme can be found [here](#).

As Inland Revenue releases discussion documents and other commentary, we will comment on the above issues in future editions of *Tax Talk*.

The work programme provides you with the opportunity to see where Inland Revenue is putting its focus in the next 12 to 18 months. If you are concerned about any of these areas or would like to be kept informed about any specific Inland Revenue work programme item, please contact your local Baker Tilly Staples Rodway tax advisor.