

Determination E12: Persons excused from complying with section EA 3 of the Income Tax Act 2007

1 Explanation (which does not form part of this determination)

This determination cancels and replaces Determination E11: Persons Not Required to Comply With Section EF 1 of The Income Tax Act 1994.

2 Reference

This determination is made under section 91AAC of the Tax Administration Act 1994. It determines the extent to which a person is excused from complying with section EA 3 of the Income Tax Act 2007. This determination applies for a person's income years ending on or after 1 April 2009, until this determination is cancelled by the Commissioner.

3 Interpretation

- (1) This clause governs the interpretation of this determination, unless the context otherwise requires.
- (2) Terms not defined in this determination have the same meaning as in the Income Tax Act 2007.
- (3) In this determination:

audit fees, for a person and an income year, means fees incurred by the person in the preparation by a qualified person of a report, for financial reporting purposes, that relates to a financial statement for the person and the income year

balance date, for a person and an income year, means the last day of the person's income year

expiry date, in relation to expenditure incurred in an income year, means—

- (a) if the expenditure relates to payment for services, the date by which it is reasonably expected that performance of the service will be completed:
- (b) if the expenditure relates to payment for, or in relation to, a chose in action—
 - (i) for a definite period, the last day of the period; or
 - (ii) for an indefinite period, the day on which it is reasonably expected that the period will end

financial statement, in relation to a person—

- (a) means, subject to paragraph (b),—
 - (i) a balance sheet:
 - (ii) a profit and loss account:
 - (iii) group accounts:
 - (iv) a financial statement within the meaning of that term in section 8 of the Financial Reporting Act 1993:
 - (v) a group financial statement within the meaning of that term in section 9 of the Financial Reporting Act 1993:

- (vi) a supporting note or statement that accompanies the financial statement:
- (b) does not include—
 - (i) a statement of production quality or production volume:
 - (ii) a statement prepared in relation to the exercise of any rights in respect of which royalties are payable

mandatory accounting costs, in relation to a person and an income year (the **reported year**), means expenditure incurred by the person for the purpose of meeting any requirement imposed on the person by operation of law to provide accounting, statistical, operational, sociological, or other information in respect of—

- (a) events occurring in the reported year:
- (b) a state of affairs in the reported year:
- (c) events occurring in, or a state of affairs in, the income year that immediately follows the reported year, if the events or state of affairs are required to be reported in the financial statements for the reported year

periodic charges means expenditure regularly incurred on a rated annual or more frequent basis, and includes local authority levies other than rates, licences, and registrations

qualified person means—

- (a) a person qualified for appointment as an auditor of a company in terms of section 165 of the Companies Act 1955 or section 199 of the Companies Act 1993:
- (b) a person similarly qualified, according to the law in any other jurisdiction, for appointment as an auditor of a body corporate.

4 Determination

A person who, for an income year to which this determination applies, is allowed a deduction for an expenditure is excused from complying with section EA3 of the Income Tax Act 2007 in respect of the expenditure and the income year to the extent to which—

- (a) the expenditure is described by a row in column 1 of the schedule; and
- (b) the unexpired portion of the expenditure and the unexpired portions of all other expenditures also described by the row do not, in total, exceed the maximum total amount specified in column 2 of the relevant row of the schedule; and
- (c) the length of time between the balance date for the income year and the subsequent expiry date of the expenditure does not exceed the time period specified in column 3 of the relevant row of the schedule; and
- (d) in relation to expenditure on goods specified in column 1 of rows (d) and (k) of the schedule, the goods are in the possession of the person at balance date; and
- (e) the deduction of the expenditure has not been deferred to a subsequent income year for financial reporting purposes.

5 Expenditure incurred by partnership

For the purpose of applying this determination to partners and partnerships, section HG 2 of the Income Tax Act 2007 must be ignored, and expenditure must be treated as incurred by the partnership and not by the partners.

Schedule

Description of expenditure	Maximum total amount of unexpired portions	Time period between balance date and expiry date
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
(a) rental for the lease of land or buildings relating to a period ending more than 1 month after balance date	\$26,000	6 months
(b) rental for the lease of land or buildings other than rental dealt with elsewhere in this determination	—	1 month
(c) rental for the lease or bailment of livestock or bloodstock	\$26,000	6 months
(d) payment for purchase of consumable aids	\$58,000	unlimited
(e) insurance premiums under an insurance contract if the total amount of such expenditure incurred in the income year in respect of the contract does not exceed \$12,000	—	12 months
(f) payment in respect of equipment service contracts or warranties if the consideration for the contract or warranty forms an inseparable and indeterminate part of the consideration for the asset or assets to which it relates	—	unlimited
(g) payment in respect of a contract for the service or maintenance of plant, equipment, or machinery if the total amount of such expenditure incurred in the income year in respect of the contract does not exceed \$23,000	—	3 months
(h) payment for the use or maintenance of telephone and other communication equipment	—	2 months
(i) costs for services, other than those dealt with elsewhere in this determination	\$14,000	6 months
(j) periodic charges, other than those dealt with elsewhere in this determination	\$14,000	12 months
(k) purchase of stationery	—	unlimited
(l) subscriptions for a newspaper, journal, or other periodical, including for the maintenance or annotation of a documentary information service	—	unlimited
(m) motor vehicle registration and drivers' licence fees	—	unlimited
(n) subscriptions, or other fees (but excluding any payment in respect of a franchise agreement) entitling membership of any trade, professional, or other association if the amount of such expenditure incurred in the income year in respect of the association does not exceed \$6,000	—	12 months

Description of expenditure	Maximum total amount of unexpired portions	Time period between balance date and expiry date
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
(o) costs on postal and courier services, including such expenditure for franking, private post boxes and private postbags, business reply post and freepost, and expenditure evidenced by the possession of postal stamps	—	unlimited
(p) rates made and levied under Part 3 of the Local Government (Rating) Act 2002 to the extent of the amount invoiced on or before balance date	—	unlimited
(q) advance bookings for travel and hotel or motel accommodation	\$14,000	6 months
(r) cost of advertising	\$14,000	6 months
(s) road-user charges	—	unlimited
(t) audit fees	—	unlimited
(u) mandatory accounting costs	—	unlimited
(v) expenditure described in section DB 3(1) of the Income Tax Act 2007 and not excluded by section DB 3(2) of that Act	—	unlimited
(w) direct claim settlement costs included in the outstanding claims reserve of a general insurer in relation to a contract of insurance, if the total gross claim cost (excluding GST) included in the outstanding claims reserve in relation to any 1 claim does not exceed \$65,000 (excluding GST)	—	unlimited

This determination is signed by me on the 4th day of March 2009.

Robin Oliver
Deputy Commissioner, Policy, Inland Revenue.