2014/69

Tax Administration (Financial Statements) Order 2014

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 10th day of March 2014

Present:
His Excellency the Governor-General in Council

Pursuant to section 21C of the Tax Administration Act 1994, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Revenue after consultation in accordance with section 21C(2) of that Act, makes the following order.

Contents

Order

1 Title

This order is the Tax Administration (Financial Statements) Order 2014.

2 Commencement

This order comes into force on 1 April 2014.

3 Application

This order applies to income years starting on and after 1 April 2014.

4 Interpretation

(1) In this order, unless the context otherwise requires,—

Act means the Tax Administration Act 1994

company—

(a) has the meaning given to it by section YA 1 of the Income Tax Act 2007; and

(b) includes a look-through company within the meaning of that section

financial statements includes any notes and other supporting materials forming part of the financial statements

income year has the meaning given to it by section YA 1 of the Income Tax Act 2007

minimum requirements means the minimum requirements for the preparation of financial statements prescribed in this order

tax year has the meaning given to it by section YA 1 of the Income Tax Act 2007.

(2) The following terms or expressions have the meaning given to them by accounting principles:

(a) accrual accounting:
(b) assets:
(c) double-entry:
(d) expenditure:
(e) historical cost:
(f) income:
(g) intangible property:
(h) liabilities:
(i) net assets.

(3) An example used in this order is only illustrative of the provision to which it relates. It does not limit that provision.

(4) If an example and a provision to which it relates are inconsistent, the provision prevails.

Compare: 1994 No 166 s 3(2)

Application of minimum requirements

5 Small companies exempt from minimum requirements

(1) Small companies are exempt from the minimum requirements.

(2) A company is **small** in respect of an income year if both of the following apply:
(a) the company is not part of a group of companies; and
(b) the company has not derived income in excess of $30,000, and has not incurred expenditure in excess of $30,000, during the income year.

6 Non-active companies exempt from minimum requirements

(1) Non-active companies are exempt from the minimum requirements.

(2) A company is **non-active** in respect of an income year if the company is not required to furnish a return of income in respect of the income year under section 43A of the Act.

7 Minimum requirements apply to look-through companies

The minimum requirements apply to look-through companies within the meaning of section YA 1 of the Income Tax Act 2007 unless—
(a) the company would be exempt under clause 5 or 6; or

(b) section 21B(3) of the Act applies.

Nature of minimum requirements

8 Minimum requirements for preparing financial statements

The minimum requirements for the preparation of financial statements under the Act are as follows:

Form of financial statements

(a) the financial statements must consist of—
   (i) a balance sheet setting out the assets, liabilities, and net assets of the company as at the end of the income year; and
   (ii) a profit and loss statement showing income derived, and expenditure incurred, by the company during the income year; and

Principles with which statements must comply

(b) the financial statements must be prepared applying the following accounting principles:
   (i) the double-entry method of recording of financial transactions; and
   (ii) the principles of accrual accounting; and

Valuations

(c) the financial statements may, however, disclose amounts using the following valuation principles:
   (i) tax values, when those values are consistent with double-entry and accrual accounting; and
   (ii) historical cost, when tax values are not consistent with double-entry or accrual accounting or when, in the preparer's opinion, historical cost provides a better basis of valuation; and
   (iii) market values, when, in the preparer's opinion, market values provide a better basis of valuation than those in subparagraphs (i) and (ii); and

Example

Company A, registered for GST, incurs $115,000 (including GST) entertainment expenses during the income year. For income tax purposes, Company A can deduct $50,000 (excluding GST) ($100,000

Example—*continued*

(excluding GST) x 50% under subpart DD of the Income Tax Act 2007). For financial reporting purposes, the expenditure would be $106,521 (including the amount of GST that needs to be returned as an adjustment under section 21I(4)) of the Goods and Services Tax Act 1985. So Company A should disclose expenditure of $106,521.

Statement of accounting policies

(d) the financial statements must contain a statement of accounting policies setting out, in sufficient detail so that a user can understand the material policies that have been applied or changed,—
  (i) the policies and assumptions that have been used in the preparation of the financial statements; and
  (ii) a description of the effect of any material changes in the accounting policies used since the financial statements prepared for the previous income year; and

(e) the financial statements must disclose whether they have been prepared on a GST inclusive or exclusive basis; and

Matters that statements must show

(f) the financial statements must show the matters prescribed in the Schedule; and

(g) the financial statements must disclose comparable figures for the previous income year; and

How matters must be shown

(h) interest and dividends received must be shown in the financial statements grossed up for resident withholding tax; and

(i) dividends received must be shown in the financial statements grossed up for imputation credits to the extent that the dividend is taxable and the credits are available to satisfy the company's income tax liability for the income year.

Schedule

cl 8(f)

Matters that financial statements must show

1 Matters that company must show in financial statements

The matters that a company must show in its financial statements are as follows:

Reconciliations

(a) a reconciliation of the company's financial statements and taxable income for the income year; and

(b) an appropriately detailed, taxation-based, schedule of the company's fixed assets and depreciable property; and

Companies with particular types of business

(c) if the company is a forester, information about the cost of timber as at the end of the income year and a reconciliation of movements in the cost of timber during the income year; and

(d) if the company is a specified livestock owner, details of livestock valuation methods, valuations, and calculations for tax purposes; and

Items from prescribed forms

(e) all relevant amounts that any forms prescribed by the Commissioner of Inland Revenue under section 35 of the Tax Administration Act 1994 require to be copied from the company's financial statements; and

Example

The amounts from the IR 10 form issued by the Commissioner entitled *Financial statements summary*, or any replacement of that form, that is applicable to the company

(f) sufficient notes to support amounts required to be disclosed as an exceptional item on any form prescribed by the Commissioner of Inland Revenue under section 35 of the Tax Administration Act 1994.

Example

Notes to support amounts required to be disclosed by Box 26 of that IR 10 form, or any replacement of that form

2 Associated person transactions

(1) This clause applies to an income year that corresponds to the tax year starting on 1 April 2015 or any later tax year.

(2) A company must also show in its financial statements the matters listed in subclause (3) in respect of a transaction between the company and any associated person of the company (**A**) within the meaning of subpart YB of Part Y of the Income Tax Act 2007 if—

- (a) A is not a company (for example, A is an individual or trust); or
- (b) A is a company that is not resident in New Zealand for the purposes of section YD 2 of the Income Tax Act 2007.

(3) The matters are—

- (a) the following amounts:
  - (i) interest expense incurred by the company in respect of any loan made to the company by the associated person; and
  - (ii) amounts paid by the company to the associated person in the nature of outbound loans or other advances; and
  - (iii) expenses incurred by the company for services provided by the associated person (including wages, salaries, management fees, and payments for other services provided to the company); and
  - (iv) expenses incurred by the company to the associated person in respect of rentals or leases of land or other assets; and
  - (v) expenses incurred by the company to the associated person for acquiring or using intangible property, including royalty payments; and
- (b) a reconciliation of movements in shareholders' equity and loans or current accounts to, and from, the shareholders or other owners of the company and associated persons of the company.

Michael Webster,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order comes into force on 1 April 2014 and applies to income years starting on and after 1 April 2014.

This order is made under new section 21C of the Tax Administration Act 1994 (the **TAA 1994**), as inserted by the Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Act 2014 (the **2014 Act**).

Application of minimum requirements

Section 21B of the TAA 1994 (as also inserted by the 2014 Act) provides that a company must prepare financial statements in accordance with prescribed applicable minimum requirements unless the company is exempt.

This order exempts small-scale companies and non-active companies from the minimum requirements.

Also, the Act provides that if another enactment provides applicable minimum requirements for preparing financial statements for the company, the company must prepare its financial statements using those minimum requirements and is exempt from the ones prescribed in this order (*see* section 21B(3) of the TAA 1994). So, for example, if the company is a charity, it must prepare its financial statements in accordance with the requirements of the Charities Act 2005. If the company is a large company, it must prepare its financial statements in accordance with Part 11 of the Companies Act 1993.

The order states expressly that “company” has the same meaning as in section YA 1 of the Income Tax Act 2007, which includes bodies corporate and other entities that have a legal existence separate from that of their members.

Section 21B of the TAA 1994 also provides that a taxpayer of a class specified in an Order in Council must prepare financial statements in accordance with prescribed applicable minimum requirements.

This order provides that the minimum requirements also apply to look-through companies as defined in the Income Tax Act 2007 unless they are otherwise exempt.

Minimum requirements

Clause 8 and the *Schedule* of this order also prescribe the minimum requirements for preparing financial statements.

Clause 8 prescribes the principles according to which the financial statements must be prepared. For example, the intention is that tax values should be used as the basis of valuation when they are consistent with double-entry accounting and accrual accounting. If tax values are not consistent with those 2 principles, then historical cost values can be used as an alternative basis of valuation if the person who prepares the statements considers that they produce a better result, or market values can be used as an alternative basis of valuation if the person who prepares the statements considers that they produce a better result than both tax values and historical cost values.

The *Schedule* sets out the matters that must be disclosed. *Clause 1* prescribes matters that must be shown for income years starting on and after 1 April 2014. *Clause 2* prescribes additional information, relating to transactions with certain associated persons of the company, for later income years (eg, those starting on and after 1 April 2015).

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 13 March 2014.
This order is administered by the Inland Revenue Department.

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2014