

2 September 2014

Public Consultation
Inland Revenue Department
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XPB0041: Income Tax – Timing of disposal and derivation of income from trading stock

1. The New Zealand Law Society (Law Society) appreciates the opportunity to comment on the Inland Revenue Department's draft Public Ruling *XPB0041: Income Tax – Timing of disposal and derivation of income from trading stock* (draft Public Ruling).
2. The draft Public Ruling is a reissue of a previous ruling – *BR Pub 04/06*. There are differences to take into account the following legislative changes:
 - The Income Tax Act 2007 clarified whether section CB 1 or CB2 applies where there has been a disposal of stock, i.e. section CB 2(5) provides that section CB 2 overrides section CB 1; and
 - The recent introduction of section CB 15B.
3. The main reasoning of the draft Public Ruling is almost identical to that contained in *BR Pub 04/06*, and not particularly contentious in the Law Society's view.
4. However, a concern raised by the scope of the draft Public Ruling is whether IRD could issue some guidance on one of the issues covered by *BR Pub 04/06*, but not by the draft Public Ruling.
5. *BR Pub 06* also considered disposals of land but, because IRD is of the view that the recent introduction of section CB 15B (definition of when land is "acquired" for section CB 6 purposes) might have implications for when land is disposed of, the discussion of disposal of land has been removed from the draft Public Ruling.
6. It appears to the Law Society that the draft Public Ruling excludes land entirely, although land can be trading stock in certain circumstances and therefore we consider that land as trading stock should be dealt with.

This submission was prepared with assistance from the Law Society's Tax Law Committee. If you wish to discuss this further please do not hesitate to contact the committee convenor Neil Russ, through the committee secretary Rhyn Visser (ph 04 463 2962 / rhyn.visser@lawsociety.org.nz).

Yours faithfully,



Chris Moore
President