

19 May 2014

Public Consultation
Inland Revenue Department
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QWB0124: Income Tax – Costs of demolishing an existing building on a building site

The New Zealand Law Society (Law Society) appreciates the opportunity to comment on the draft Question We've Been Asked, *QWB0124: Income Tax – Costs of demolishing an existing building on a building site* (QWBA).

The Law Society welcomes the Inland Revenue Department (IRD)'s initiative in providing certainty regarding its position on the issues addressed in the QWBA, and considers that its conclusions represent a fair application of the relevant case law principles and statutory provisions.

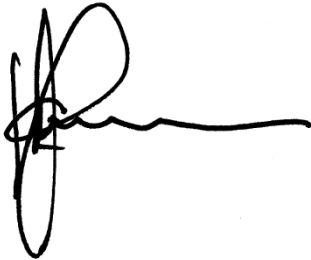
However we note that the QWBA does not comment on the impact of a taxpayer having a pattern of, or being accustomed to, demolishing buildings on a regular or recurring basis in the course of carrying on business.

We are aware of the IRD arguing that certain receipts (for example, lease incentives) are revenue in nature due to the taxpayer being accustomed to receiving such amounts in the ordinary course of business. The same analysis could logically follow in relation to incurrence of demolition costs where recurrence or a sufficient link to business operations is more suggestive of deductible non-capital expenditure.

The Law Society considers that comment addressing this issue would be a useful addition to the analysis in the QWBA.

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 (04 463 2962), rhyn.visser@lawsociety.org.nz).

Yours sincerely

A handwritten signature in black ink, appearing to be 'Chris Moore', with a long horizontal flourish extending to the right.

Chris Moore
President