

Media Release

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NZICA welcomes Penny and Hooper extension

The extension of the period for the “two-year” concession in relation to Penny and Hooper-equivalent disclosures is welcome, says the New Zealand Institute of Chartered Accountants (NZICA).

Inland Revenue will extend the period for the “two-year” concession in relation to Penny and Hooper-equivalent disclosures until 31 March 2013.

“It is really pleasing that we could work effectively with Inland Revenue to ensure that our members have certainty about how the Penny and Hooper decision affects them and their clients,” said Frank Owen NZICA’s Acting Tax Director.

“This extension will give NZICA time to inform our members about IR’s ongoing work, and to encourage them to make voluntary disclosures where appropriate. This will provide clarity to both our members and IR.”

In Penny and Hooper, the Supreme Court found two orthopaedic surgeons had avoided tax on income by paying themselves low salaries through a structure of companies and trusts. The company and trust structure itself was not illegal, but the case has encouraged IR to investigate structures that reduce personal income tax.

NZICA acknowledges that, to date, IR has sent risk review letters to a range of taxpayers who seemed to IR, on the information available to them, to be taking positions at the more extreme end of the scale in respect of personal service income.

NZICA notes the IR position that a full audit could start at any time prior to 31 March, but would be limited to those taxpayers who have received risk review letters and haven’t made a voluntary disclosure. IR notes, and NZICA acknowledges, that audits will commence at any time from now on, given that IR indicated in March that proactive action was now commencing.

The voluntary disclosure concession applies in respect of returns filed prior to the date of the Supreme Court decision, where the tax position taken is broadly equivalent to the facts in the Penny and Hooper case. IR will, on receipt of a voluntary disclosure, reach an agreed adjustment for the most recent two years where that position was taken. In general this will be the two years returns filed prior to the Supreme Court decision. The final position reached will vary according to the facts of the case.

Where IR does not accept the disclosure as full and complete, or the amount of income being returned requires further justification by the taxpayer, IR will allow a reasonable period for the taxpayer to provide that information.

“We will be working closely with the IRD to promote this decision with our members and to make sure that our members have all the answers they need,” says Mr Owen.

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About NZICA

NZICA is the membership body of choice for over 32,000 accounting and business professionals, working around New Zealand and across the globe. We act in the public interest through regulating the profession and promoting quality, integrity and expertise. Our members hold one of three prestigious professional accountancy designations: Chartered Accountant (CA), Associate Chartered Accountant (ACA) or Accounting Technician (AT).