

# TaxTeamTalk

Supplementary earthquake edition April 2011



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## Earthquake tax relief measures confirmed

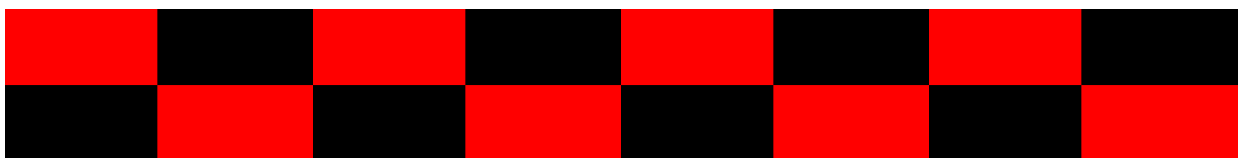
On 28 March 2011, the Government confirmed tax relief to help Christchurch residents and businesses get back on their feet after the recent earthquakes. This means that the advice outlined in last month's special business-continuity edition of TaxTeam Talk now needs to be read in light of these developments.

The additional tax-relief measures announced involve the following:

- Exempting businesses from tax or gift duty on trading stock donated or sold for less than market value within four months of either the 4 September 2010 or 22 February 2011 earthquakes;
- Extending the redundancy tax credit, which had been due to end on 31 March 2011, to 30 September 2011;
- Granting the Commissioner of Inland Revenue discretion to extend statutory tax dates on a case-by-case or class-of-cases basis;
- Granting the Commissioner of Inland Revenue discretion to exclude certain amounts from being included as Working for Families income; and
- Exempting certain welfare contributions and benefits from tax if provided by employers to employees within eight weeks of either earthquake.

We elaborate on the latter exemption overleaf, as this is most likely to be applicable for public-sector employers.

**In short, these are excellent initiatives, and more may be expected—for example, the Government is still considering depreciation and other matters raised by submissions.**



# Welfare contributions and benefits

In the aftermath of the earthquakes, employers have been seeking to support their staff, and others, by providing various benefits, including water, food, accommodation, clean-up assistance, home-engineering assessments and similar, along with additional money to defray extra costs of this nature and/or in connection with disrupted work-patterns and work-sites. Ordinarily, most such benefits would be of a private or domestic nature and, where provided to an employee, subject to PAYE or FBT.

Although legislation is yet to be drafted, the Government has announced that the following exemptions will apply, retrospectively, to eliminate the taxation consequences of some of these benefits and payments.

## The general criteria

To be eligible for any of the exemptions, the benefits must:

- Be provided by “employers to employees for the purpose of alleviating the effects of the earthquakes on employees”;
- Be provided within eight weeks of either earthquake;
- Not be in lieu of salary or wages;
- Not depend on the seniority of the employee; and
- If a recipient is associated with an owner, also be available to non-associated employees.



Subject to meeting these minimum criteria, the benefits must also fall within the following specified welfare-benefit categories.

## Welfare-benefit categories

### Accommodation

All eligible accommodation benefits will be exempt from tax.

### Sundry benefits

All eligible sundry benefits will be exempt from Fringe Benefit Tax (“FBT”), provided that:

- They are unclassified benefits as defined in the FBT rules (i.e. this exemption does not apply to the use of a vehicle, insurance and loans);
- They have been made generally available to affected Canterbury employees; and
- Uptake does not depend on an individual employee’s specific circumstances.

This exemption aims to cover those benefits where it is difficult for the employer to establish *which* employees have received *which* benefits (such as those provided at drop-in centres). We note that the last criterion should become clearer with the drafting of relevant legislation; however, the obvious aim is to prevent benefits being streamed to a privileged few.

### Specific benefits and cash payments

The first \$3,200 (max) of eligible benefits in cash or kind that have been provided to affected Canterbury employees, per employee for each earthquake, will be exempt from tax if the benefit is not already exempt under the accommodation or sundry benefits exemptions.

Any benefits in excess of \$3,200 may still be taxable. Importantly:

- Where both cash and benefits have been provided that exceed the \$3,200 limit, and part of the total is subject to FBT, this exemption applies to the cash first; and
- When calculating whether the \$3,200 limit has been breached, only otherwise taxable benefits will be relevant.

## Potential refund

If you have historically paid tax on a benefit that falls within one of the three proposed exemptions, you may be entitled to a tax refund. As no guidance has been provided to date on how the IRD intends to deal with these overpayments, this is a space to watch!

## What this means for you now

Amending legislation is not expected to be introduced or enacted until May 2011, so, to take advantage of these exemptions, employers should ensure that benefits provided clearly fall within the general and specific criteria set out above. Practically, this means keeping benefit packages simple and clearly related to re-establishing ordinary living arrangements.

If you are unsure whether a benefit will fall within one of these exemptions, please call or email your usual TaxTeam contact person, or call reception on (04) 494 2390.