

## Lease Inducements

This is a big change in our tax law that will affect a good number of businesses. Currently, as many readers will know, landlords are able to induce tenants to take a lease from them by way of cash payment that is:

- tax free to the tenant;
- deductible to the landlord.

This mismatch in tax treatment has long been on the IRD's radar. It is all about to change. From 1 April 2013 lease inducement payments will no longer be tax free to the tenant. A tenant will be required to account for these payments over the term of the lease.

Initially this law change was proposed to take effect from the date of the Government's announcement, back in July. This met with strong opposition predominantly on the basis that it effectively amounted to retrospective legislation. Fortunately the Government has backtracked from that idea.

In tandem with the taxation of lease inducements, there is to be a change in the way lease surrender payments (ie payments made by a tenant to get out of a commercial lease) are taxed. These payments are ordinarily non-deductible to the tenant, whilst taxable in the hands of the landlord, ie a reverse of the tax mismatch that currently applies with lease inducements. This mismatch is similarly to be removed and a tenant will be permitted a deduction for a payment to exit the lease early.