



Inland Revenue
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17 March 2014

Mr John Fisk
PricewaterhouseCoopers
PO Box 243
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Dear John

Ross Asset Management Limited (In Liquidation) and related entities (RAM) – refunds of overpaid tax outside 4 year timeframe

Income tax law – timeframes for refunding overpaid tax

We refer to our earlier discussions in relation to RAM and in particular the Commissioner's ability to refund tax outside the 4 year timeframe set out in section RM 2 of the Income Tax Act 2007.

For the 2013 and prior income years the 4 year timeframe in section RM 2 was able to be extended to 8 years under section RM 6 where the refund had arisen from a clear mistake or simple oversight.

We have undertaken a legal analysis of section RM 6 and in particular the meaning of "clear mistake or simple oversight" in the RAM context and have concluded that investors can be considered to have made a clear mistake or simple oversight when calculating their RAM income.

Accordingly, it has been concluded that the 4 year timeframe during which the Commissioner is able to refund overpaid tax is able to be extended to 8 years in the RAM context.

2008 income year

It is our understanding that a number of RAM investors have returned taxable income with respect to the 2008 income year.

The Commissioner's position with respect to section RM 6 means that investors are able to apply for a refund of overpaid tax for the 2008 income year.

Investors requesting an amendment to their 2008 income tax return are able to rely on the principles set out in our letter of 12 November 2013.

In particular that letter provided details of the reduced investment value of RAM related foreign investments for the 2008 income year together with an explanation of how the reduced tax payable on RAM foreign investment income may be calculated.

2007 and earlier income years


Our letter dated 19 March 2013 outlined time limits for refunds, including possible refunds relating to the 2005-2007 years.

We note that the foreign investment fund rule fair dividend rate method only applied from the 2008 income year and different rules applied to the earlier years.

Any refund request for the 2007 and earlier years will need to be considered on a case-by-case basis having regard to the actual tax already paid in these earlier years and the different rules applying for those years.

If you have any queries or require any further information, please contact us.

Yours sincerely

A handwritten signature in black ink that reads "Graeme Hall". The signature is written in a cursive style with a large initial 'G'.

Graeme Hall
Senior Technical Advisor
Inland Revenue