

9 July 2021

Public Consultation  
Inland Revenue Department

By email: [Public.Consultation@ird.govt.nz](mailto:Public.Consultation@ird.govt.nz)

**Consultation on ED0231: Operational Statement Excusing estates from filing income tax returns (Operational Statement)**

The New Zealand Law Society | Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on Exposure Draft ED0231 Operational Statement *Excusing estates from filing income tax returns (Operational Statement)*. The Law Society's Property Law Section has reviewed the draft Operational Statement and supports the proposed change in policy to accept that there are occasions when estate property is held on trust and the s 43B exemption can apply.

The Law Society supports the requirement for executors to obtain a separate IRD number for an estate. There are number of estates where executors overlook or fail to understand their obligation to apply for an IRD number. This can be due to the belief that if income is taxed at the source there are no obligations to IRD, or more generally that estates do not need IRD numbers. This misapprehension is often revealed at an unfortunate time, for example when an estate has a house to sell or needs to hold funds on an interest bearing deposit.

If having an IRD number is optional executors will need to assess whether there is taxable income or real estate that will be transferred at any time during the administration of an estate. It is easier and simpler to have a blanket rule capturing as much taxable activity as possible, so executors do not need to make a judgement call about future activities, which they might get wrong. It also ensures IRD knows of the death and can then review the final pre-death tax position - of the deceased.

We are aware of occasions where a property in which the estate has a life interest has been sold, and the executors have applied for an IRD number for the estate. They have then been advised to provide tax returns from the date the estate administration began, when the only asset held was the non-income earning share in the family home.

The Law Society recommends there should be a minimum income level below which an estate is not required to file a tax return, similar to the minimum level of income from interest and dividends below which a personal tax return is not required. In the current environment of low interest rates, it is possible to have interest income of under \$100 earned after 31 March because of the timing of distribution, which requires a further tax return to be completed for the tax year. This results in additional cost for both the client and IRD, and delay in final distribution while the return is processed which is out of proportion to the income earned. We consider that this new approach could result in considerable savings and administrative efficiency for both the client and IRD.

We hope these comments are helpful and if further discussion would assist, please make contact through the Law Society's Property Law Section Manager ([kim.bull@lawsociety.org.nz](mailto:kim.bull@lawsociety.org.nz)).

Yours faithfully

A handwritten signature in cursive script that reads "Arti Chand". The letters are fluid and connected, with a prominent initial 'A'.

Arti Chand  
Vice President