Inland Revenue
Te Tari Taake

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Direct selling

Tax facts for people who distribute for direct selling organisations

Contents

Introduction

Direct selling is quite different from other ways of doing business in New Zealand. Because of this, many people who start working as distributors for direct selling organisations are unsure about how the tax rules affect them.

If you're a distributor for a direct selling organisation, this booklet is for you. We've written it to help you understand how to meet your tax obligations.

Read page 7 to find out whether you're a commission agent, an independent reseller or an employee.

www.ird.govt.nz

Go to our website for information, services and tools.

- Secure online services – login to check your account information, file an employer schedule, confirm personal tax summaries and update your family details and income.
- Get it done online – complete and send us forms and returns, make payments, make an appointment to see us and give us feedback.
- Work it out – use our calculators, worksheets and tools to help you manage your tax business like checking your tax code, or your filing and payment dates.
- Forms and guides – download our guides, and print forms to post to us.

You can also check out our newsletters and bulletins, and have your say on items for public consultation.

How to get our forms and guides

You can view copies of all our forms and guides mentioned in this guide by going to **www.ird.govt.nz** and selecting "Forms and guides". You can also request copies by calling 0800 257 773.

The information in this booklet is based on the tax laws at the time of printing.

Part 1 – Commission agent, independent reseller or employee?

Who are direct selling distributors?

Direct selling organisations sell products to the public through their distributors. The distributors may purchase the products and sell them at a marked-up price or sell them on behalf of the organisation for a commission. Distributors might also sponsor other distributors into the organisation and teach them how to sell and sponsor. These other distributors are called downliners. Distributors are normally independent from the direct selling organisation.

When you set up as a distributor for a direct selling company you fall into one of three categories for tax purposes—commission agent, independent reseller or employee. The first two types of distributors are normally self-employed but there are important differences in their tax treatment. The tax rules for employees are entirely different from the rules for self-employed people.

It's important you know whether you're a commission agent, an independent reseller or an employee.

Are you in business?

The first step in working out which tax rules apply to you is to establish whether, for tax purposes, you're "in business".

If you're in business for yourself then you're either an independent reseller or a commission agent. Employees are not in business—their employers are.

As far as the income tax rules are concerned, you're in business if the nature of your activity is businesslike and indicates an intention to make a profit.

If you only buy products for yourself or as gifts for others and have no intention of making a profit from selling those products then you're not in business. Deciding whether or not you're in business under the tax laws isn't always clear cut. If you're unsure, call us on 0800 227 774 for advice.

Your relationship with the direct selling organisation

It's important you know exactly what your status is with the direct selling organisation so you know which tax rules affect you. The table below shows the most common relationships between direct selling organisations and their distributors and briefly describes their tax obligations.

If you...	**If you...**	**If you...**
...earn a salary or wage from the direct selling organisation	...are paid solely on a commission basis for products you sell	...buy products from the direct selling organisation at wholesale prices and sell them at retail prices
...then you're...	**...then you're...**	**...then you're...**
an employee.	a commission agent.	an independent reseller.
So...	**So...**	**So...**
PAYE and ACC earners' levy are deducted from your wages.	tax is deducted from your payments.	you must pay your own tax.
You can't claim expenses.	You may have to register for GST.	Your direct selling organisation doesn't deduct tax from payments to you.
	You can claim expenses if you're in business.	You may have to register for GST, and you can claim expenses.

If you're not sure what sort of distributor you are, call us on 0800 377 774.

Employees

If your only source of income is as an employee of a direct selling organisation you'll need to fill in a *Tax code declaration (IR 330)* form and give it to the business you sell the product for. They'll deduct the appropriate PAYE and pay it to us.

The rest of this booklet is for commission agents and independent resellers (downliners).

Commission agents

If your income is commission from your sales then tax will have to be deducted from your commissions. Fill in an IR 330 and give it to the business you sell the product for. They'll then deduct 20% tax from your gross commission and pay it to us. If you don't complete the IR 330 or provide your IRD number, tax will be deducted at 35%.

Keep a record of expenses you incur in selling the products. You'll be able to claim those expenses against your commission received when you file your IR 3 tax return at the end of the financial year.

Read Part 2 for details on filing tax returns, Part 3 for expenses you can claim and Part 4 for GST obligations.

Independent resellers

As an independent reseller you're self-employed. Being self-employed means you're responsible for paying your own tax on your direct selling business profit. Profit is the amount of income left after all expenses have been deducted. You'll have to file an IR 3 tax return by 7 July each year. If you have a tax agent this date may be different.

If you're in a partnership you'll pay tax on your share of the partnership profit. You'll have to file an IR 7 tax return for your partnership, as well as an IR 3 return for yourself.

You must include a set of your direct selling financial accounts with your IR 3 return or complete an IR 3B schedule of business income.

Part 2 – General information about being in business

In Part 1 we set out some guidelines to help you decide whether you're in business. This part sets out some general tax facts all business people need to know.

Record keeping

It's important for all businesses to keep full and accurate records. You must keep these records in a safe place for seven years. Your records must be accurate enough to allow us to calculate the income and expenses of your business, and to confirm your accounts. Records you need to keep include:

- books of account to record receipts and payments
- bank statements and deposit slips
- receipts
- a list of the business assets and liabilities
- invoices issued.

For more help

If you would like more information on record keeping, get a copy of our guide *Smart business (IR 320)*.

Filing your returns

For most businesses, the accounting year ends on 31 March. This is their balance date. If you want a balance date other than 31 March, you must apply to us in writing, stating the reasons for the change.

For a 31 March balance date, you must send your IR 3 tax return to us by 7 July. Any tax owing as a result should be paid by 7 February in the following year.

Example

Fred is self-employed and has a 31 March balance date. He must file his 2010 IR 3 by 7 July 2010. He does this and finds he owes $780.22 in tax.

Fred must pay this tax by 7 February 2011.

Note

If you have a tax agent these dates may be different.

Provisional tax

If you're running a business, you need to budget for paying your own tax. Unless your profit is very small, you'll have to start paying your income tax through the year—this is known as provisional tax. Even commission agents who have tax deducted from their commissions may have to pay provisional tax.

The number of provisional tax instalments you'll need to make depends on whether you're GST-registered, your GST filing frequency and which provisional tax method you're using.

If you're GST-registered you'll make combined GST and provisional tax payments and complete combined returns.

If you're not GST-registered, you'll need to make three instalments.

If you use the ratio method to calculate your provisional tax, you'll need to make six instalments.

You'll need to budget for these payments in the financial planning of your business.

Are you liable for provisional tax?

When you work out the financial accounts for your business after your balance date each year, you'll know how much profit (or loss) the business made. This profit or loss goes into your tax return as part of your taxable income. You can then work out the tax due on your total year's income.

After deducting any other tax already paid on your behalf (such as PAYE), the result is your residual income tax. If the residual income tax is more than $2,500 you need to pay provisional tax for the following year.

When you start your business

Because provisional tax is based on your previous year's tax you probably won't have to pay any provisional tax during your first year in business. However, it's very important that you're prepared for future provisional tax payments by budgeting for them in your first year.

For more help

Read our guide *Provisional tax (IR 289)*. It explains what provisional tax is, what income it's charged on and how to pay it.

Part 3 – Claiming expenses

Expenses

Generally, an expense is deductible for income tax purposes if it's incurred in generating taxable income or is necessary for carrying on a business. Expenses may be deducted even if they don't produce income immediately, but are expected to do so in the future.

You can't claim private living expenses. If you buy an asset and use it both in your business and privately, you'll have to apportion the use of that asset between business and private use.

The cost of assets can be written off (depreciated) over a number of years covering the life of the asset. See page 16 for more information. The way you acquire assets can sometimes make a difference to what you can claim. For example, rental payments for leased assets are often fully deductible.

Following are some of the more common types of business expenses.

Cost of goods sold

Independent resellers buy goods and resell them. This means one of their major expenses is the cost of the goods they sell.

Commission agents don't usually buy the stock they sell, so they don't claim for the cost of goods sold.

The cost of goods sold is made up of three parts—purchases, opening stock and closing stock. Independent resellers subtract the cost of goods sold from their sales total to get their gross profit.

Purchases is a fairly straightforward item. It's simply the amount you pay for the goods you're going to sell.

At the end of the income year (usually 31 March) if you hold goods that you purchased for selling to customers, you'll have to do a stocktake. This will give you your closing stock figure.

There are several ways to value your stock but cost is the most practical way. This means your closing stock value is simply the amount it cost you to buy the items you have on hand.

Example

At 31 March 2010 Bill has 140 bottles of shampoo on hand. They cost him $5 each. His closing stock value is simply 140 × $5 = $700.

Your closing stock then becomes your opening stock for the next year (starting 1 April).

Going back to the cost of goods sold, the calculation is:

	Opening stock
plus	purchases
less	closing stock

Example

Bill's purchases for the year ended 31 March 2010 were $2,470. His opening stock at 1 April 2009 was $600, and we worked out his closing stock at $700 (see above).

His cost of goods sold is:

Opening stock	$ 600	
plus purchases	$ 2,470	
	$	3,070
less closing stock	$ 700	
Cost of goods sold	$ 2,370	

Bill subtracts his cost of goods sold from his total sales. Say his sales were $7,620 for the year ended 31 March 2010. His gross profit is:

Sales	$ 7,620
less cost of goods sold	$ 2,370
Gross profit	$ 5,250

If Bill pays or receives performance volume rebates he will adjust his gross profit accordingly (see page 13).

Goods for private use

You must make an adjustment for any goods from your opening stock used privately. Keep full records of the value of goods you take for personal use, or for family and friends. Show the cost of these goods as drawings and don't include them in your purchases or sales figures.

Example

Bill took shampoo from his opening stock for personal use. The cost of the shampoo was $50. He didn't include this in his purchases claim, or in his sales figure. He includes the $50 in his total drawings for the year.

Performance volume rebates

Depending on how your direct selling organisation is structured, an upliner may pay performance volume rebates to downliners. If you do this, you can claim the payments for tax purposes. Add them on to your cost of goods sold when you work out your gross profit.

If you receive performance volume rebates, you reduce your cost of goods sold by the amount you receive.

Example

Bill's gross profit is worked out in the example on page 12. If he paid and received some performance volume rebates, his profit is worked out as follows:

Sales	$ 7,620	
Cost of goods sold	$ 2,370	
less performance volume rebates received	$ 1,250	
plus performance volume rebates paid out	$ 750	
Subtotal		$ 1,870
Gross profit		$ 5,750

Samples and promotional equipment

Promotional equipment such as product samples, brochures, delivery bags and sales aids for showing to distributors or customers can be claimed for tax purposes.

Remember, if you're using the equipment privately you must make an adjustment for private use.

Motor vehicle expenses

You'll probably use a motor vehicle in your direct selling business to make deliveries, attend sales meetings and visit your downliners.

To claim for business running expenses (such as repairs, registration, petrol, depreciation, insurance) on a private motor vehicle, you have to record the amount of business use of the vehicle by using a logbook. Your logbook must show the date, distance and reason for travel.

Rather than recording actual business use of the motor vehicle for the whole year you can keep a logbook for a 90-day test period to calculate your percentage of business use.

You can then use this percentage for the next three years, unless your business use of the vehicle rises or drops by more than 20%.

Example

Hugh keeps a logbook for a 90-day test period and finds he has travelled a total of 2,500 km. The business trips he has detailed in his logbook total 1,800 km.

$$\frac{1{,}800}{2{,}500} = 72\%$$

Hugh can claim 72% of all his motor vehicle expenses as a business expense.

If you don't keep a vehicle logbook you may claim up to 25% of the vehicle running costs as a business expense. However, you may be asked to substantiate the percentage claimed.

Alternatively, you may use Inland Revenue mileage rates to make a claim. You can view these at **www.ird.govt.nz** or call us on 0800 377 774.

No GST credit can be claimed on motor vehicle expenses calculated using mileage rates.

Home office expenses

If you run your business from a home office you may be able to claim part of the costs of running your home.

Your home office must be an area you've set aside principally for business use. You must keep a full record of all expenses you wish to claim.

Divide the total floor area you set aside for your home office by the total floor area of your house. The result is the percentage you can claim of your expenses.

Example

Sandy has an office of 10 square metres set aside in a house of 100 square metres. She can claim 10% (10/100) of house expenses, including power.

If she owns the property she can claim 10% of the rates, interest on her mortgage (not the principal) and insurance on the house (if incurred in producing taxable income).

Telephone expenses

If you're using your telephone at home for business calls you may claim up to 50% of the telephone rental. You may only claim a higher percentage if you can show actual business use is greater than 50%.

If you have two telephone lines in your house, one for domestic use and the other for commercial, you can claim 100% of the commercial line. You can't claim any of the domestic rental.

You can also claim 100% of your business toll calls, provided you keep records of them.

Depreciation

If you buy assets for your business you can't immediately claim their cost for tax purposes, but you can make a claim for depreciation over the asset's life. The depreciation you calculate each year is deducted from the asset's value. The remaining value of the asset is called the "adjusted tax value".

There are two ways to calculate depreciation on an asset—the diminishing value method and the straight line method.

The diminishing value (or DV) method calculates depreciation each year by using a constant percentage of the asset's adjusted tax value. This means the amount you claim for depreciation will steadily reduce each year.

The amount you claim using the straight line (SL) depreciation method is a percentage of the asset's original cost price. So you claim the same amount of depreciation for an asset each year.

Example 1

Molly buys a used car for $15,000 in April 2010 for use in her business. A logbook shows the car is used 75% of the time for business purposes. She can't claim the full $15,000 as an expense in the year she purchases it. However, she can claim depreciation each year. Molly chooses to use the diminishing value method of depreciation for cars she can claim 26% of the adjusted tax value each year.

$15,000 × 26% = $3,900 depreciation

The adjusted tax value of the car will now be:

$15,000 – $3,900 = $11,100 (this is the figure Molly will use to calculate depreciation on next year).

An adjustment must be made for Molly's private use of the car and is calculated as:

$3,900 × 75% = $2,925

Therefore Molly can only claim $2,925 as a depreciation expense, even though the full depreciation amount is $3,900.

Example 2

Harry bought a computer for $3,000 in October 2009. In April 2010 he started using it full time in his business. The market value of the computer in April 2010 is $1,500. This is the figure that depreciation will be calculated on in Harry's 2011 income tax return.

For more help

For more information on depreciation read our booklet *Depreciation (IR 260)*.

Other expenses you can claim

Other business expenses that can be claimed for tax purposes are:

- accounting fees
- postage
- ACC levies
- stationery such as business cards, writing material, name stamps and other office supplies
- conference and travel-related expenses (business part only).

For more help

For more information on claiming business entertainment expenses read our booklet *Entertainment expenses (IR 268)*.

Working out your profit

Commission agents

If you're a commission agent you only need to keep details of the expenses you can claim. The total of these expenses will be deductible when you file your *Individual tax return (IR 3)*.

Independent resellers

Independent resellers receive their income by selling goods they've bought from their supplier. They can supplement their income with volume price rebates or discounts.

At the end of your accounting year you'll have to produce a set of accounts to work out how much profit (or loss) your business made.

To do this, add up all the income that the business earned over the year, and subtract all the allowable business expenses. Your profit is the remainder.

Example

Here's how an independent reseller works out their profit:

Income	**$**	**$**
Retail sales		10,500
Cost of sales		
Cost of goods sold	4,000	
less gross performance rebates received	(2,000)	
plus performance volume rebates paid out	1,000	
Subtotal		3,000
Gross profit		7,500
Other expenses		
ACC levies	144	
Accounting fees	200	
Depreciation (on computer)	350	
Home office expenses (power, insurance etc)	265	
Motor vehicle	1,020	
Postage and stationery	52	
Samples and promotion	500	
Telephone	220	
Total		2,751
Net profit		4,749

Remember you can't claim stock you use privately so you'll need to make an adjustment for these goods.

GST and your income tax accounts

If you're registered for GST there are two ways to prepare your accounts for income tax purposes.

- You can record all income and expenses including GST. Then adjust your accounts by listing GST refunds as income and GST to pay as expenses.
- The other way to prepare your accounts is to simply exclude GST on all income and expense items.

If you're not registered for GST show your total expenses, including GST, as well as your total income.

See Part 4 for more information on GST obligations.

Part 4 – GST (goods and services tax)

GST is a tax on consumption. It's charged and accounted for at a rate of 15%, by GST-registered businesses. They then calculate the amount of GST they have charged and pay it to us. They also claim back the GST they incur as part of their business.

The GST rules apply differently to commission agents and independent resellers. Employees do not have to account for GST—their employer does.

Registering for GST

Before you can register for GST you must be conducting a taxable activity. Your distributorship may be a taxable activity even if you're not "in business" as defined on page 5.

If your business as an independent reseller or commission agent is carried on continuously or regularly and involves supplying goods and services for a consideration, you may have to register for GST.

If you have an annual turnover or sales of $60,000 or more in your business, or you expect your turnover to be $60,000 or more in the next 12 months, you must register for GST.

In a direct selling business, turnover is made up of:

- retail sales
- bonuses
- commissions.

A good guideline to see whether you'll be over the $60,000 threshold for the year is to look at your monthly turnover. If your monthly turnover is $5,000 or more you should register for GST.

If you operate two or more business ventures, you'll need to add the turnovers together to see if you're over the $60,000 turnover figure.

If your annual turnover is less than $60,000 you don't have to register, but you may do so if you wish.

If you charge GST in your prices you must register, even if your turnover is less than $60,000.

To register for GST, you'll need to complete a *GST registration (IR 360)*. Do this online at **www.ird.govt.nz/gst** or download the form at **www.ird.govt.nz** "forms and guides".

If you're already GST-registered in another business and you're running your direct selling business part-time, then you are GST-registered for both businesses.

If you register for GST, let your direct selling organisation and also your upliner know.

Taxable periods

When you register for GST you have a choice as to how often you file your GST returns. Depending on your turnover you may be able to file your returns monthly, two-monthly or six-monthly.

Accounting basis

The way you account for GST is called your accounting basis. You may choose one of three options—payments, invoice or hybrid basis.

Under the payments basis, you generally account for GST only when you make or receive a payment.

Using the invoice basis, you generally account for GST in the earliest taxable period in which you issue or receive an invoice for the supply, or any payment is made or received.

The hybrid basis is a combination of the invoice basis and the payments basis. Under it you claim the GST on your purchases when you actually pay for them, and account for GST on your sales at the earlier date of when you issue an invoice or receive a payment.

Filing your returns

Your GST return and any payment is due by the 28th of the month following the return period. There are two exceptions to this.

If your GST return period ends on:

- 30 November, it will be due on 15 January of the following year
- 31 March, it will be due on 7 May.

Tax invoices

If you're GST-registered, you must give a tax invoice for any supplies you make when asked to do so. The following details must be on your tax invoice:

- the words "tax invoice" in a prominent place
- your name (or trade name) and GST number
- the date the invoice was issued
- a description of the goods or services provided
- total amount payable and either show the GST content separately or write "GST-inclusive".

If the value of the goods (including GST) is over $1,000 you must also show the name and address of the recipient and quantity or volume of goods or services supplied.

If you're going to make a claim for GST paid on your purchases, keep a copy of the tax invoice from your supplier. For expenses under $50 record these details:

- the purchase date
- a description of the goods or services bought
- the purchase price
- the supplier's name.

You don't need to keep tax invoices for these expenses, but you should keep a receipt or voucher as proof of purchase.

Performance volume rebates

As an independent reseller you may receive performance volume rebates. These rebates reduce the cost price of stock from your supplier.

Your direct selling organisation or upliner should give you a credit note with the rebate.

You'll then have to make an adjustment in your GST return so that you don't claim too much GST on your purchases.

If you're passing on part of a rebate you've received to your downliner, give them a credit note for that part of the rebate.

GST and direct selling

As a commission agent you're supplying your services to your direct selling organisation, so you'll have to charge the organisation GST on your commissions. Make sure you let your direct selling organisation know if you register for GST.

You don't usually account for GST on sales because your direct selling organisation will do that. Deduct the GST you've paid on your business expenses from the GST you charge on your commissions and pay the balance to us.

The rules are slightly different for independent resellers. You charge all your customers and downliners GST, then deduct the GST your supplier charged as well as the GST you paid on business expenses. Pay the balance to us. If you're going to register for GST, let your upliner know.

Of course in both cases, if you've paid more GST than you charged, we'll refund the difference.

Cancelling your GST registration

If your turnover falls below $60,000 in a 12-month period, or if you stop your business activity, you no longer have to be registered for GST.

To cancel your GST registration, go to **www.ird.govt.nz/gst** or call us on 0800 377 776. You'll also have to file a final GST return.

If you keep some business assets when you cancel your registration you'll have to account for GST on the value of those assets in your final GST return.

For more help

For more information on GST, read our *GST guide (IR 375)*.

Part 5 – Services you may need

0800 self-service numbers

This service is available seven days a week (any time, except between 5 am and 6 am) for a range of self-service options. Remember to have your IRD number with you when you call.

For personal information, such as account balances, you'll also need a personal identification number (PIN). You can get a PIN by calling 0800 257 777 and following the step-by-step instructions.

Order publications and taxpacks	0800 257 773
Request a summary of earnings	0800 257 778
Request a personal tax summary	0800 257 444
Confirm a personal tax summary	0800 257 771
All other services	0800 257 777

Customer service quality monitoring

As part of our commitment to providing you with a quality service, we record all phone calls to and from our contact centres. Find out more about this policy or how to access your recorded information at **www.ird.govt.nz**

Business tax information and kaitakawaenga Māori

Business tax information officers (BTIOs) offer a free business tax information service to new businesses and organisations to help them meet their tax responsibilities. This service is available to individuals and groups.

Most of our offices also have a kaitakawaenga Māori who can advise Māori organisations and individuals on their tax responsibilities. Our BTIOs and kaitakawaenga Māori will tell you:

- which taxes you need to know about
- what records you need to keep
- how to complete your tax returns (eg, GST and employer returns)
- when to file returns and make payments.

Find out more about these services and our free seminars at **www.ird.govt.nz** or by calling us on 0800 377 774.

Audits and investigations

If you're running a business you can expect to be audited from time to time. This will involve our staff checking your records against the returns filed to make sure you have complied with your tax obligations.

Remember that you must keep all financial records of any taxable activity for seven years. We may ask you to keep the records for an additional period when auditing or investigating you.

If you want to know more about audit procedures, refer to our booklet *Inland Revenue audits (IR 297)*.

Privacy

Meeting your tax obligations means giving us accurate information so we can assess your liabilities or your entitlements under the Acts we administer. We may charge penalties if you don't.

We may also exchange information about you with:

- some government agencies
- another country, if we have an information supply agreement with them
- Statistics New Zealand (for statistical purposes only).

If you ask to see the personal information we hold about you, we'll show you and correct any errors, unless we have a lawful reason not to. Call us on 0800 377 774 for more information. For full details of our privacy policy go to **www.ird.govt.nz** (keyword: privacy).

If you have a complaint about our service

We're committed to providing you with a quality service. If there's a problem, we'd like to know about it and have the chance to fix it. You can call the staff member you've been dealing with or, if you're not satisfied, ask to speak with their team leader/manager. If your complaint is still unresolved you can contact our Complaints Management Service. For more information go to **www.ird.govt.nz** or call us on 0800 274 138 between 8 am and 5 pm weekdays.

If you disagree with how we've assessed your tax, you may need to follow a formal disputes process. For more information, read our factsheet, *If you disagree with an assessment (IR 778)*.