

Clarification for TDL regarding indefeasible right to use (IRUs)

Background

1. We received a request from one qualifying liable person (QLP) to provide a clarification on the treatment of payments to acquire indefeasible right to use (IRUs) for the purposes of the 2013/14 telecommunications development levy (TDL).
2. An IRU is an access right where a telecommunications network operator acquires the right to use a segment of (dark) fibre for a specified period.
3. A QLP, when calculating its estimate of qualified revenue for the TDL, may deduct certain expenditure in Template 2: payments made to other qualifying liable persons, or Template 3: payments made to non-qualifying liable persons for services originally purchased from a qualifying person.
4. Templates 2 and 3 are designed to avoid the double counting of revenue by allowing QLPs to deduct certain payments for telecommunications services that are supplied by, or originate from, other QLPs. This rationale is explained on page 2 of Attachment A of the Section 83 Specified Information and Assurance Report Instructions.
5. In addition, the instructions on Templates 2 and 3 state:

all payments disclosed in this template must be for services provided within New Zealand and used ...by the QLP to provide telecommunication services to the QLP's own customers in New Zealand.
6. Under NZ GAAP, IRUs are typically treated as non-current assets by the acquirer and not as operating expenses incurred to acquire services. Accordingly, payments for IRUs are usually not deductible for the purposes of templates 2 and 3.

Clarification

7. When calculating the estimate of qualified revenue for the 2013/14 TDL, QLPs may not deduct the cost of purchasing an IRU, when under NZ GAAP the IRU should be treated as an asset.
8. Specifically the cost of purchasing such IRUs should not be declared as a deduction on either Template 2: payments made to other qualifying liable persons or Template 3: payments made to non-qualifying persons for services originally purchased from a qualifying person.