

STRATEGIES FOR REASSASSMENTS

TAX TRADERS TEAM



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Corporation

X TAX
TRADERS

TODAY'S SESSION



**BACKGROUND &
LEGISLATION**



**IR's BROADENED
DISCRETION**



CURRENT TRENDS



**POOLING STRATEGIES
FOR REASSESSMENTS**



WHY TAX TRADERS?



POLL 1

BACKGROUND



WHEN CAN I USE TAX POOLING?

01

Current period
provisional and
terminal tax

02

Reassessments of
income and non-
income tax

03

Where IR has
provided
discretion

BASIC REQUIREMENTS FOR USING POOLING TO SATISFY A REASSESSMENT



- Original return filed
- Only buy the difference between original and reassessed position
- Purchase and transfer within 60 days of issue of Notice of Reassessment
- Available for almost all tax types

OWN V PURCHASED FUNDS



Own funds

- On time tax payments
- Use for other tax types
- Not subject to 75-day and 60-day legislative timeframes
- 66% commonality in shareholding at time of payment retains “own funds” classification
- Imputation credits generated on date of deposit

Purchased funds

- Retrospective acquisition of tax
- Applies to buy, finance, swap and reverse finance transactions
- Subject to legislative timeframes for on-transfer to IR
- Imputation credits generated after tax acquired (when funds transferred to IR)

CAN I USE TAX POOLING FOR A HISTORIC PERIOD?

| | Voluntary Disclosure | IR initiated |
|-----------------|-----------------------------|---------------------|
| Return filed | Yes | Yes |
| No return filed | Discretion available | No |



POLL 2

IR'S BROADENED DISCRETION



WHEN CAN I USE TAX POOLING?

01

Current period
provisional and
terminal tax

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Reassessments of
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Where IR has
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PREVIOUS DISCRETION

Voluntary disclosures of income tax and RWT



Commissioner to be satisfied:

Circumstances
beyond taxpayer's
control

Reasonable
justification or
excuse

Good compliance
record over past
two years

DISCRETION IS TOO NARROW



There are **several** circumstances where a taxpayer may have **unintentionally not filed** a tax return for a particular tax type and tax period.

For example, a small business may be unaware that an employee benefit they provide is subject to fringe benefit tax and so do not provide a return.

PROMOTING VOLUNTARY DISCLOSURE



Where these omissions have been made in good faith, it is disproportionately punitive to not allow taxpayers to use the benefits of tax pooling in these situations should they want to do so.

Allowing the use of tax pooling to satisfy liabilities arising from a voluntary disclosure would therefore encourage voluntary disclosure in these instances.

REVISED DISCRETION

Voluntary disclosures of income tax, RWT +
GST, FBT, NRWT, PAYE, RSCT, ESCT.



Within a reasonable amount of time from when the taxpayer/agent became aware



Commissioner to be satisfied not caused by:

A choice not to comply

Failure to take reasonable steps

VOLUNTARY MEANS VOLUNTARY



Voluntary disclosure must
be made *prior to*
becoming aware of any
tax investigation/audit

REASONABLE AMOUNT OF TIME



“Generally, ‘Within a reasonable time’ will be within a period of three months.

However, the circumstances of the specific taxpayer will also be considered.

*Inland Revenue considers the phrase means that provided the taxpayer applies at **the earliest opportunity** after they or their agent becomes aware of the liability, then the test will be met.”*

TIB Vol 34 No 5. June 2022.

Also see Example 31: J & T’s Boat Building

REASONABLE CARE



A similar test is used when applying shortfall penalties:

“What would a reasonable person do in the same circumstances considering the age, health and background of taxpayer?”

TIB Vol 34 No 5. June 2022.

Also see Example 30 : Dave’s Drainage Limited

CURRENT TRENDS



CURRENT TRENDS



- Increased IR activity
- Increased levels of voluntary disclosure filings
- Growing numbers of taxpayers engaging early and taking proactive positions
- Reasonable uptake and success in gaining Commissioner's Discretion



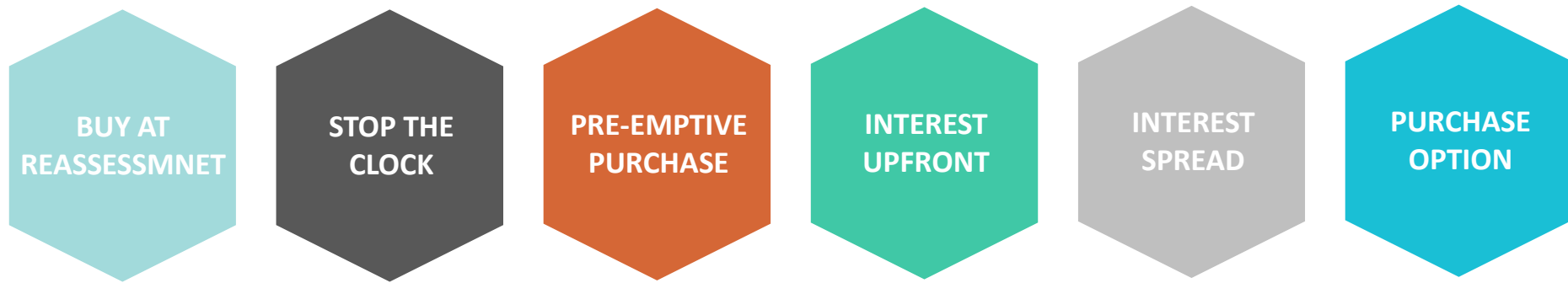
| | Applications | Successful |
|--------------|--------------|------------|
| Income tax | 65 | 58% |
| Other | 60 | 58% |
| Total | 125 | 58% |



POLL 3

POOLING STRATEGIES FOR REASSESSMENTS





BUY AT
REASSESSMNET

STOP THE
CLOCK

PRE-EMPTIVE
PURCHASE

INTEREST
UPFRONT

INTEREST
SPREAD

PURCHASE
OPTION

**SIX
STRATEGIES**

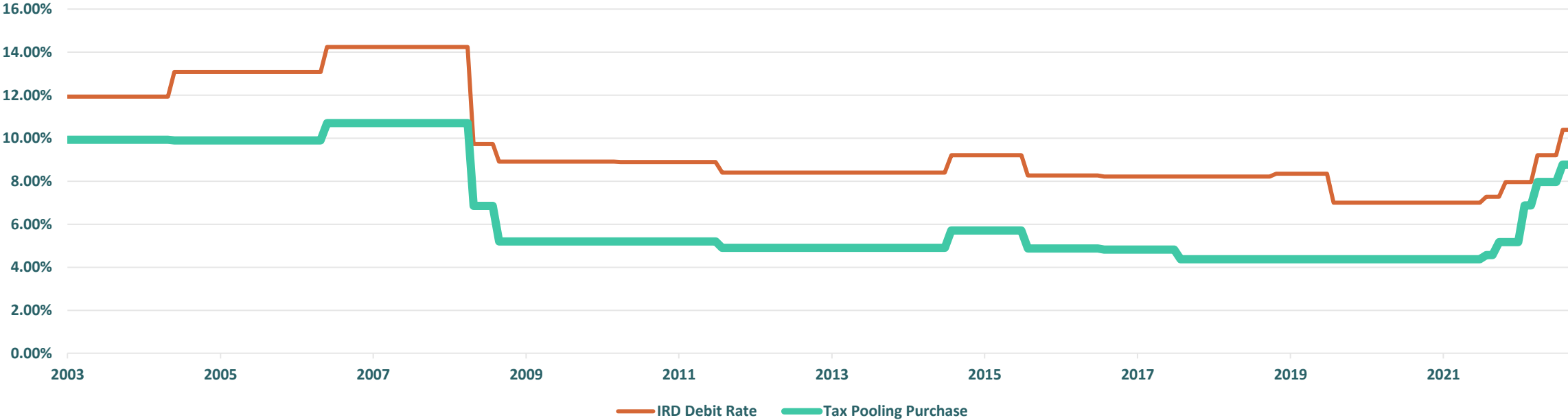
DRIVERS IN SELECTING A POOLING STRATEGY



- Certainty over eventual liability and/or timeline
- The organisation's current and future treasury position
- Impact of IR visibility over transactions
- The greater or lesser focus on minimising cost
- Other factors such as interest deductibility, stakeholder visibility etc.

The cost to buy tax...

Interest Rate Movements



Timeline

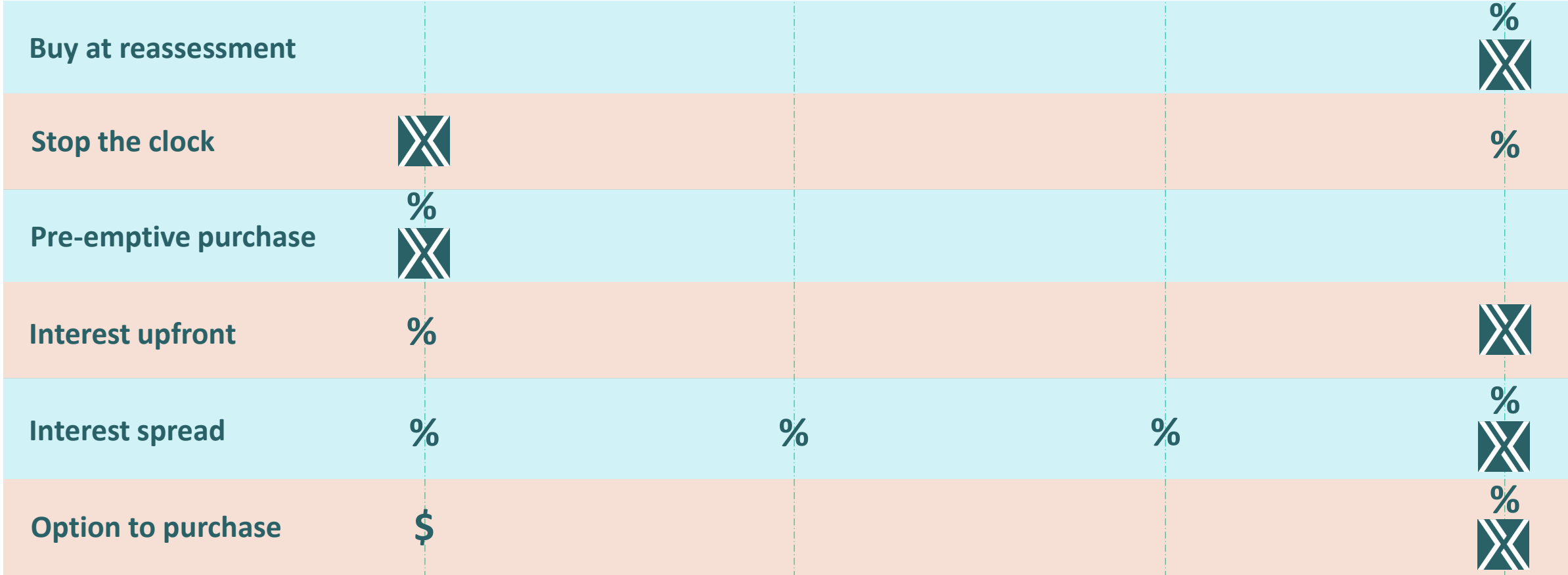
← Time = Highly variable and uncertain →

Discovery

VD / Audit

+/- Appeals

Settlement



- % = Interest payment
- X = Core tax payment
- \$ = Option fee

CASE STUDY

Pre-Emptive Purchase

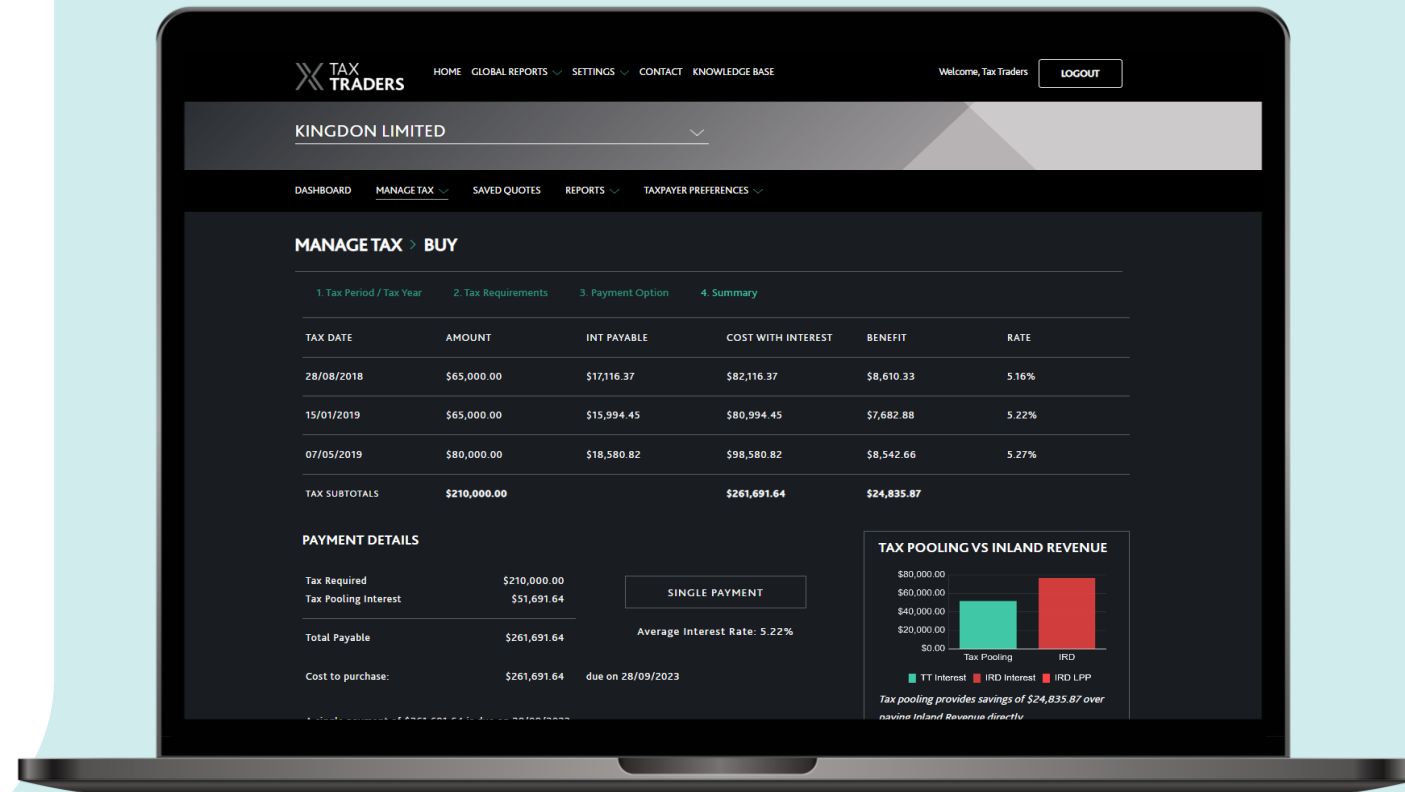


A March balance date taxpayer has identified a calculation error for the 2019 income year.

Calculations prepared for their voluntary disclosure, determine they need \$210,000 of tax across the period.

The taxpayer is conservative and wants to lock in the tax they need as soon as possible.

They purchase the tax they need through Tax Traders on 28 September 2023.



CASE STUDY

Pre-Emptive Purchase

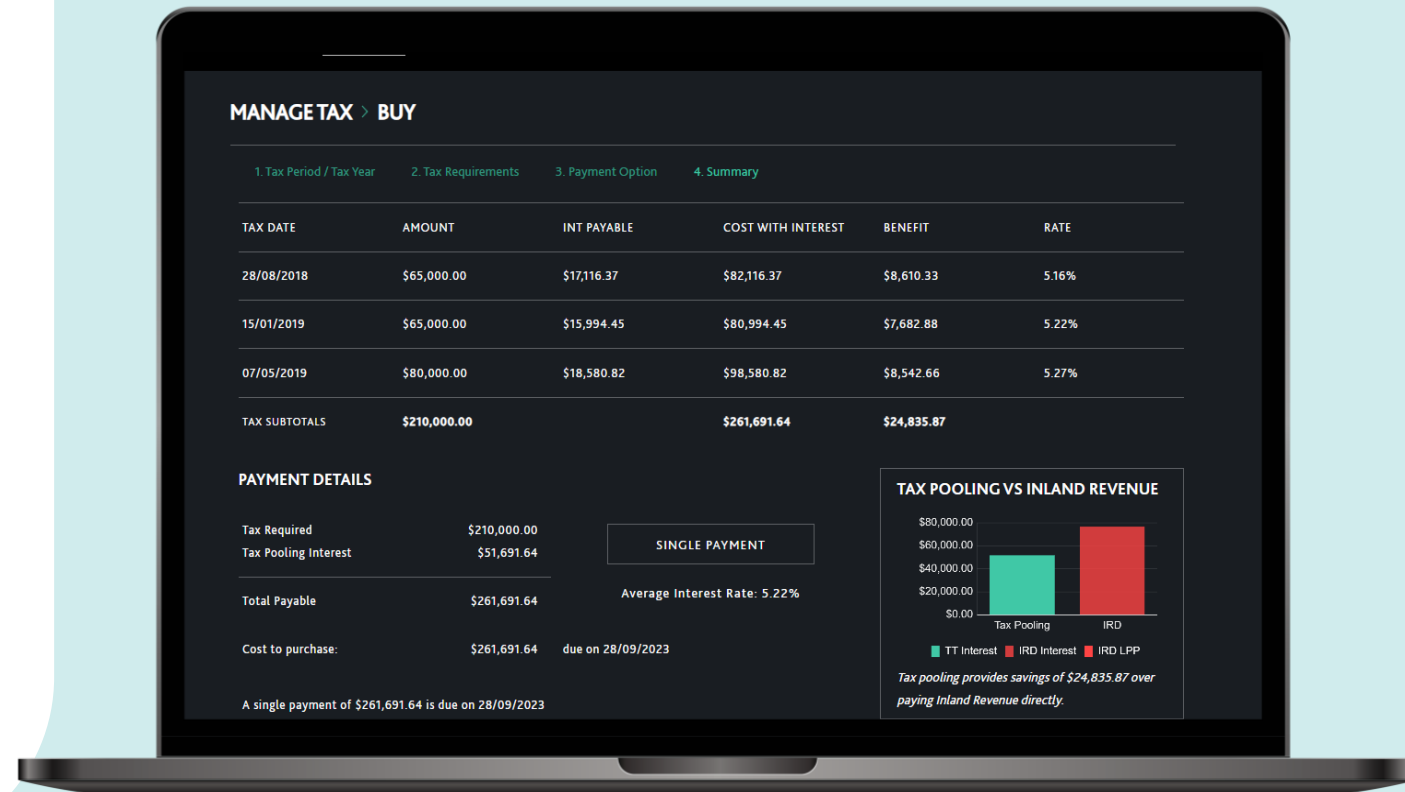


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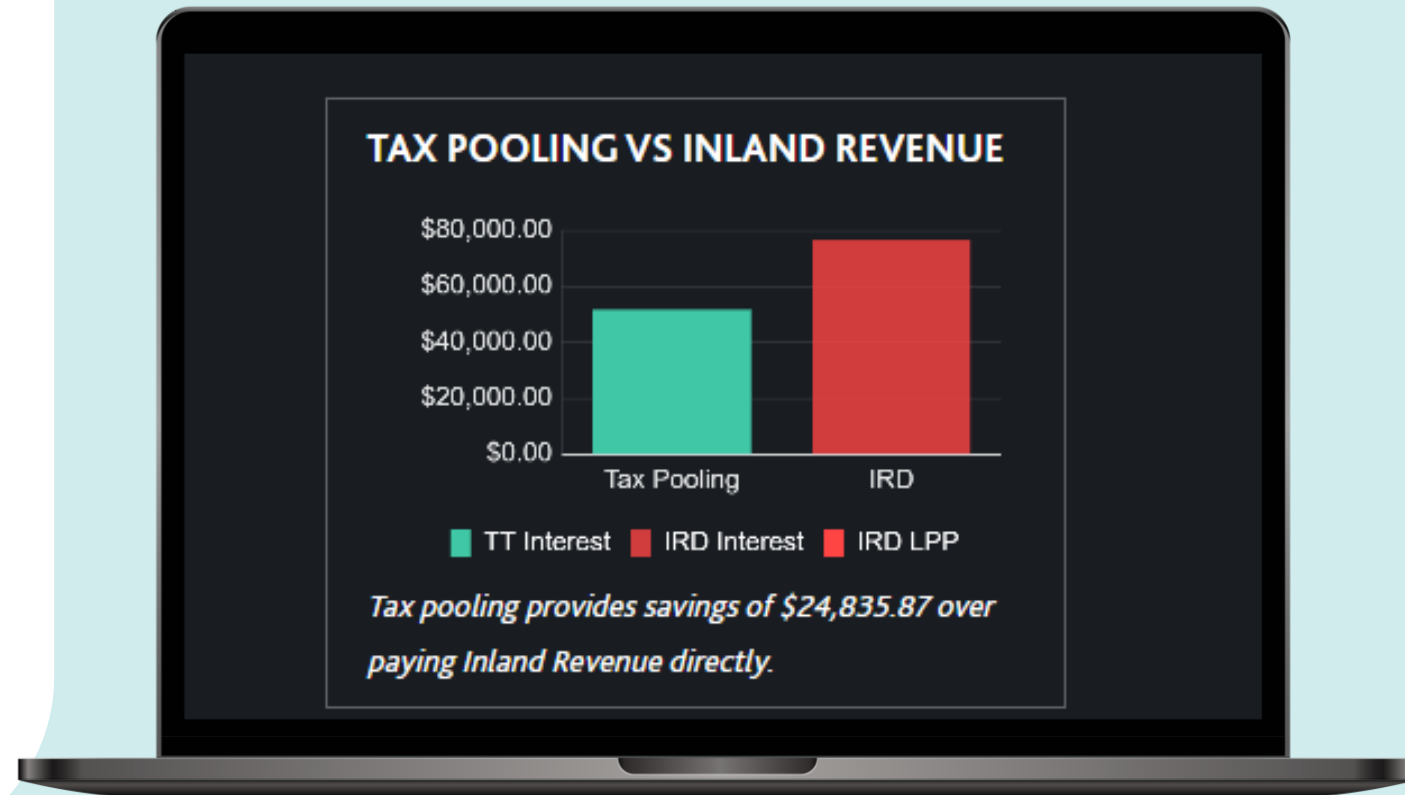


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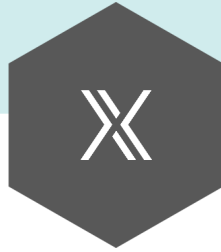
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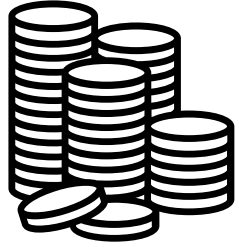
WHY TAX TRADERS?



WHY TAX TRADERS?



- Expertise to structure – let us bring the options to you
- Expert and senior client services and client director team
- In-house tax counsel
- Strong relationships with IR officials
- Market leading technology
- Comprehensive tax inventory base with tax back to August 2009
- Inventory base complemented by access to the corporate supply market



1

REASSESSMENT

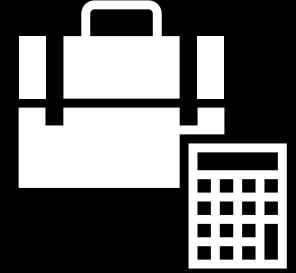
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POOLING



2

ENGAGE EARLY



3

HERE TO HELP



QUESTIONS

Thank You

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Certified



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**TAX
TRADERS**