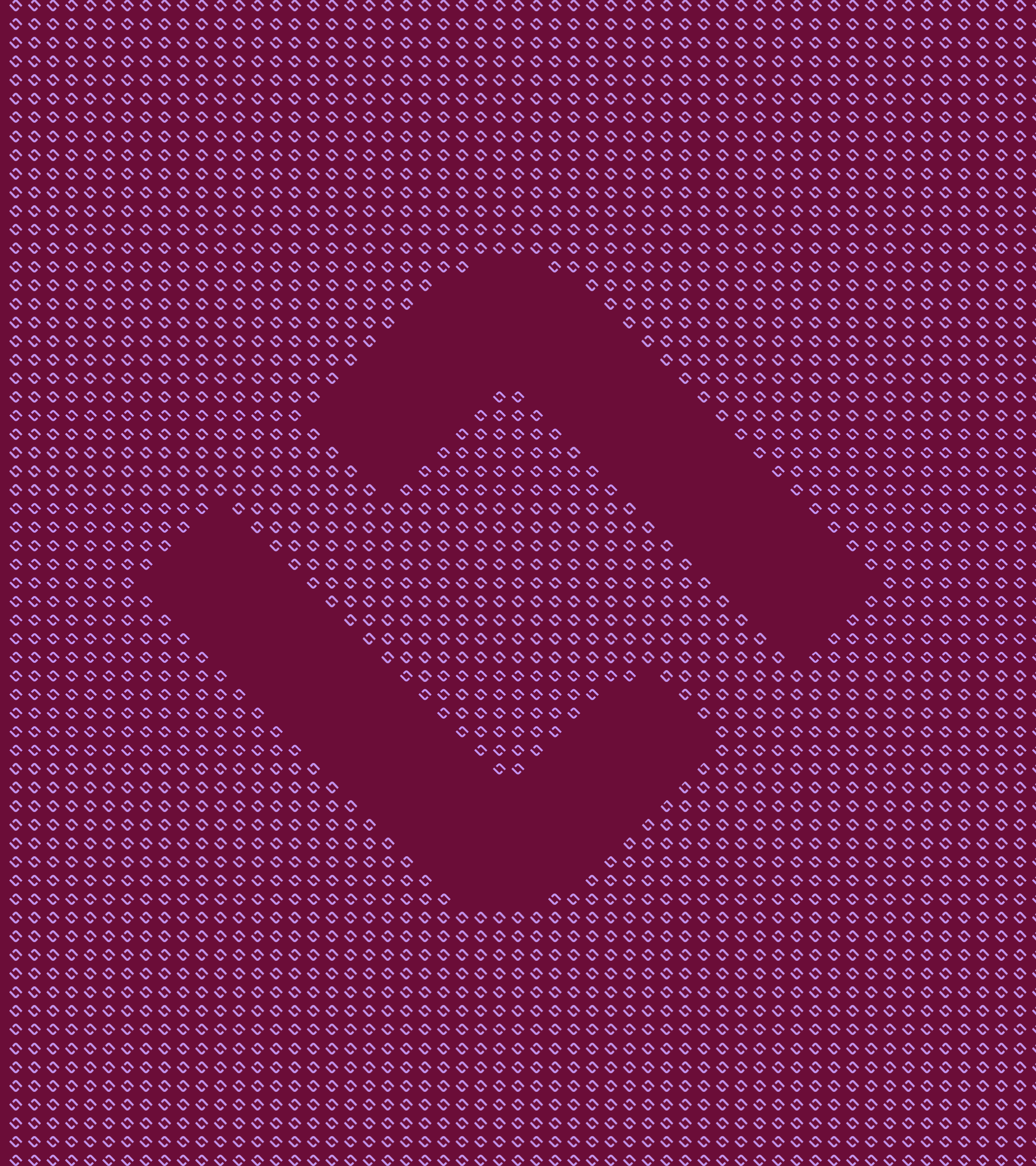


Strategies for reassessments



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We are proud to have been awarded BCorp status in April 2022. This means we have been independently assessed and audited and meet “high standards of social and environmental performance, accountability and transparency”. We are part of a growing movement both here and around the world of businesses that believe we can be a force for good.

Today's session

1

Background
& legislation

2

IRD's broadened
discretion

3

Current trends

4

Pooling strategies
for reassessments

5

Why Tax Traders?



Background

When can I use tax pooling?

1

Current period
provisional and
terminal tax

2

Reassessments
of income and
non-income tax

3

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 vs. purchased funds

Own

- ✓ 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

- ✓ Retrospective acquisition of tax
- ✓ Applies to buy, finance, swap and reverse finance transactions
- ✓ Subject to legislative timeframes for on-transfer to IR
- ✓ Imputation credits recognised on transfer to IR

Can I use tax pooling for a historic period?

Voluntary Disclosure

IR initiated

Return filed



No return filed





IR's broadened
discretion



When can I use tax pooling?

1

Current period
provisional and
terminal tax

2

Reassessments
of income and
non-income tax

3

Where IR has
provided discretion

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

RP 17B (9)-(10), effective until 30 March 2022

Discretion was 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.



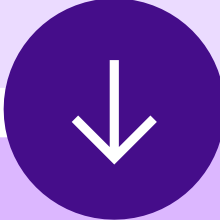
Promoting voluntary disclosure

- 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.”

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



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.



Current trends

Old discretion

(01/09/11 – 31/03/22)

	Approved applications	Declined applications	Total	Success rate
Income tax	229	320	549	42%
Other	64	69	133	48%
Total	293	389	682	43%

New discretion

(01/04/22 – 30/06/24)

	Approved applications	Declined applications	Total	Success rate
Income tax	68	44	112	61%
Other	74	36	110	67%
Total	142	80	222	64%



Pooling strategies for reassessments



Six strategies

Buy at
reassessment

Stop the clock

Pre-emptive
purchase

Interest
upfront

Interest
spread

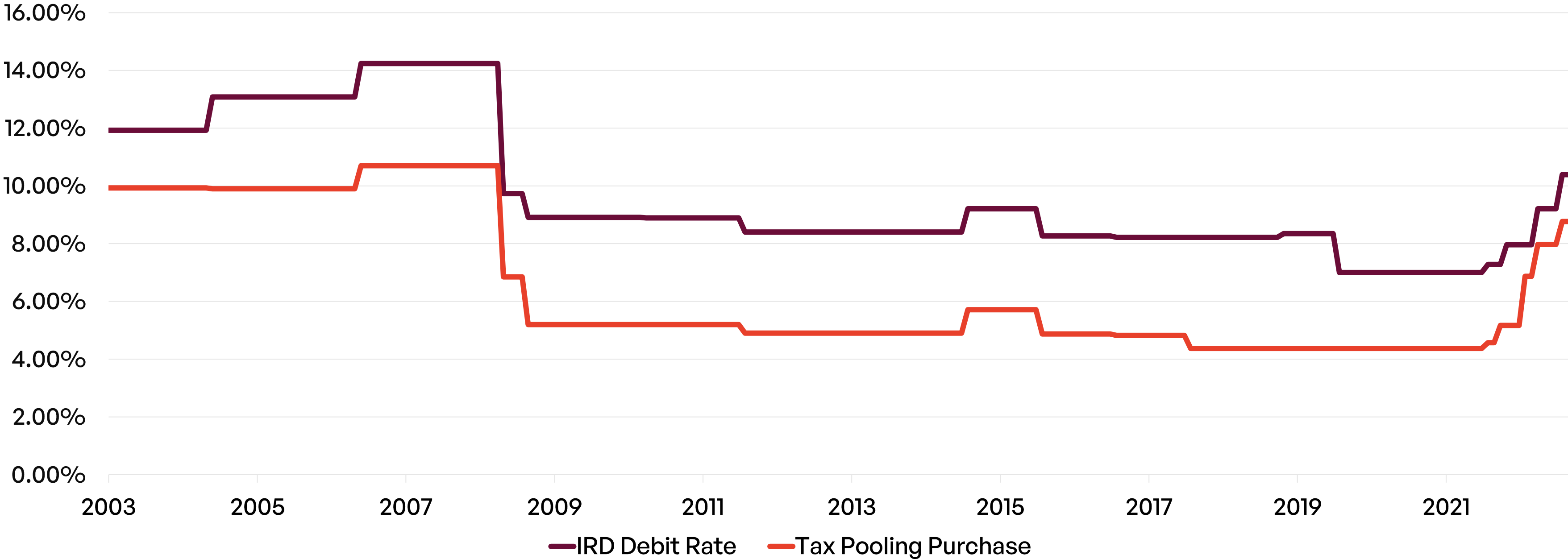
Purchase
option

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.

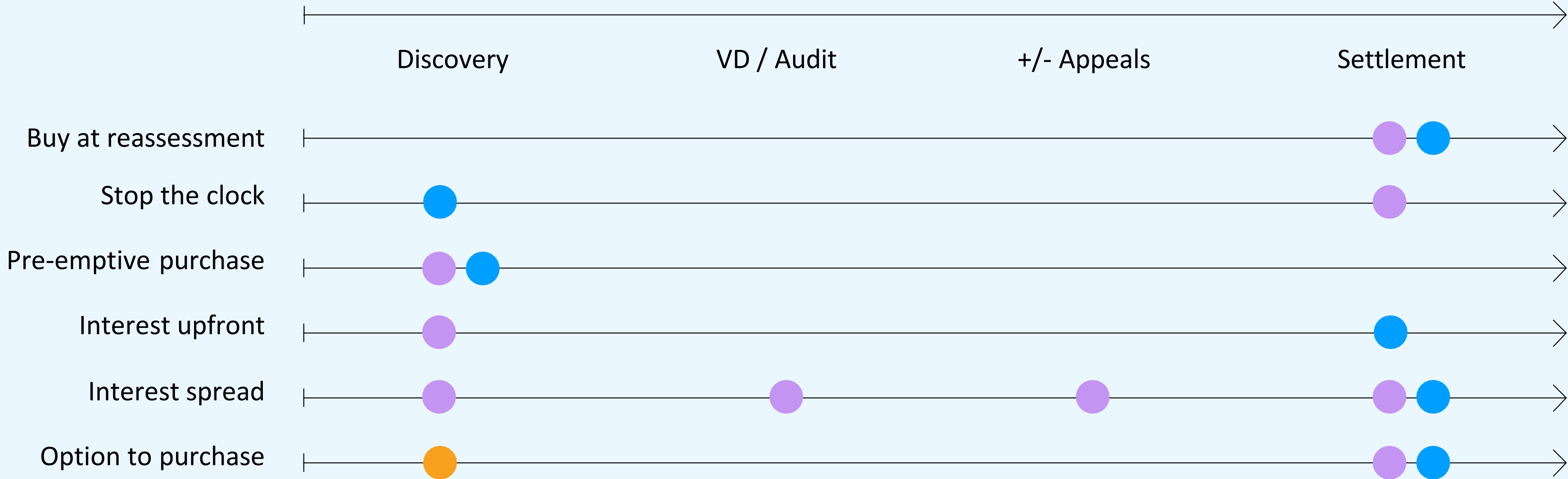
The cost to buy tax...

Interest Rate Movements



Timeline

Time = Highly variable and uncertain

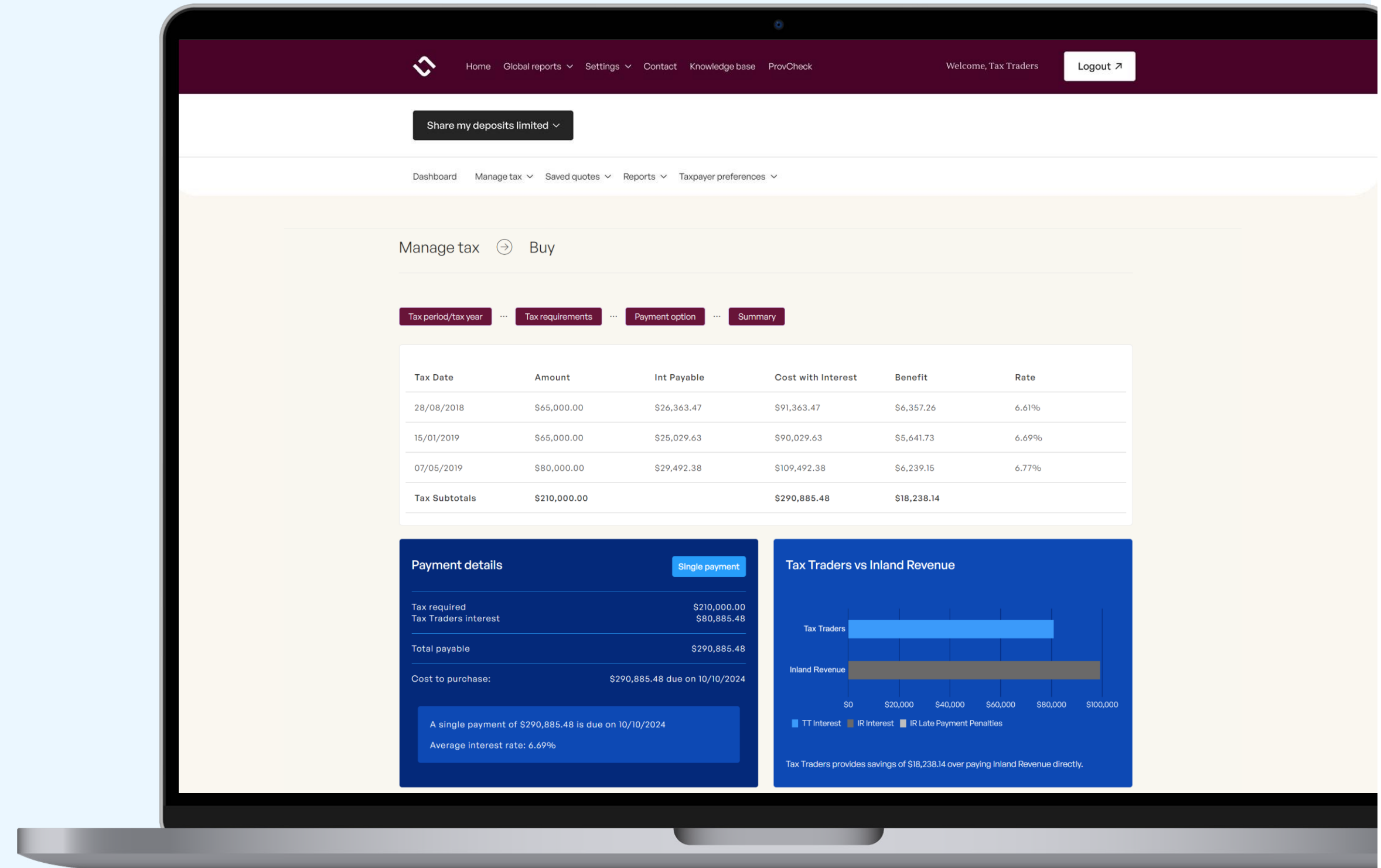


● Interest payment ● Core tax payment ● Option fee

Pre-emptive purchase

Case Study

- 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 10 October 2024





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



Let's recap

1

Reassessment
= Pooling

2

Engage early

3

Here to help

Thank you



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