

Part L

Credits of tax and other credits

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LA 1 What this Part does

This Part—

- (a) identifies when a person's credit of tax arises; and
- (b) provides the rules that govern the use of a credit of tax in satisfying an obligation under section BB 2 (Main obligations).

Defined in this Act: credit of tax

Compare: new

LA 2 Satisfaction of income tax liability

A person must use their total credit of tax for a tax year to satisfy their income tax liability for the tax year.

Defined in this Act: credit of tax, income tax liability, tax year, total credit of tax

Compare: 2004 No 35 s BC 9

LA 3 When total credit less than or equal to income tax liability

Unsatisfied income tax liability

- (1) If a person's total credit of tax for a tax year is less than or equal to their income tax liability for the tax year, the person has an amount of unsatisfied income tax liability for the tax year.

Amount

- (2) The amount of unsatisfied income tax liability is—
- (a) equal to the difference between the person's total credit of tax for the tax year and their income tax liability for the tax year:
 - (b) satisfied when the person pays their terminal tax for the tax year.

Defined in this Act: amount, credit of tax, income tax liability, tax year, terminal tax, total credit of tax

Compare: 2004 No 35 s BC 9

LA 4 When total credit more than income tax liability

Satisfied income tax liability

- (1) If a person's total credit of tax for a tax year is greater than their income tax liability for the tax year, the person must use their total credit of tax (including the credits listed in paragraphs (a) to (d)) to satisfy their income tax liability by using—
- (a) first, a non-refundable credit of tax:
 - (b) second, a credit of tax for a supplementary dividend:
 - (c) third, a credit of tax for an imputation credit:
 - (d) fourth, a refundable credit of tax.

Remaining credits of tax

- (2) A person who has satisfied their income tax liability under subsection (1), must deal with their remaining credits of tax for the tax year under section LA 5.

Defined in this Act: credit of tax, imputation credit, income tax liability, non-refundable credit of tax, refundable credit of tax, supplementary dividend, tax year, total credit of tax

Compare: 2004 No 35 ss BC 8(2), BC 9, BC 10, LD 3(3), LD 3A(4), LE 2(6)

LA 5 Treatment of remaining credits

What this section applies to

- (1) This section applies to a remaining credit of tax referred to in section LA 4(2).

Non-refundable credits

- (2) A non-refundable credit of tax is extinguished. But this subsection does not apply to a credit of tax for income tax and foreign income tax paid in relation to foreign attributed income, which is used under section LK 4 (Use of remaining credits).

Credits for supplementary dividends

- (3) A person uses a credit of tax for a supplementary dividend by applying section LP 3 (Use of remaining credits).

Credits for imputation credits

- (4) A person uses a credit of tax for an imputation credit by applying section LE 2, or LE 3 (which relate to the use of remaining credits of tax).

Refundable credits

- (5) The Commissioner refunds a refundable credit of tax by applying section LA 6, LA 7, or LA 8.

Defined in this Act: Commissioner, credit of tax, foreign attributed income, foreign income tax, imputation credit, income tax, non-refundable credit of tax, refundable credit of tax, supplementary dividend

Compare: 2004 No 35 ss BC 9, BC 10

LA 6 Remaining refundable credits: PAYE, withholding tax, and certain other items

What this section applies to

- (1) This section applies to a person's credit of tax remaining for a tax year under section LA 5(5), if it is a credit of tax under—
- (a) section LB 1 (Credits of tax for source deduction payments):
 - (b) section LB 2 (Credits of tax for provisional tax payments):
 - (c) section LB 3 (Credits of tax for resident withholding tax payments):
 - (e) subpart LF (Credits of tax for dividend withholding payment credits):
 - (d) subpart LO (Credits of tax for Maori authority credits).

Use of credits

- (2) The Commissioner must—
- (a) first, use a credit of tax to satisfy the person's income tax liability for a tax year that is before the tax year referred to in subsection (1):
 - (b) second, use a credit of tax to satisfy the person's income tax liability for a tax year that is later than the tax year referred to in subsection (1), applying this paragraph to earlier tax years before later tax years:
 - (c) third, pay the person's provisional tax for a tax year that is later than the tax year referred to in subsection (1), applying this paragraph to earlier tax years before later tax years:

- (d) fourth, treat a credit of tax as tax paid in excess and as transferable under Part 10B of the Tax Administration Act 1994:
- (e) fifth, refund a credit of tax by applying section MD 1 (Refund of excess tax) and the Tax Administration Act 1994.

Time bar

- (3) The Commissioner may amend an assessment or a determination to give effect to this section despite the time bar.

Defined in this Act: assessment, Commissioner, credit of tax, income tax liability, provisional tax, tax year, time bar

Compare: 2004 No 35 ss LD 1, LD 3, LD 3A, LD 6–LD 8, MD 1

LA 7 Remaining refundable credits: family income assistance

If a person's credit of tax remaining for a tax year under section LA 5(5) is a credit of tax under section LB 4 (Credits of tax for family income assistance), the Commissioner must treat the person's credit of tax as refundable under section MD 1 (Refund of excess tax) or transferable under Part 10B of the Tax Administration Act 1994.

Defined in this Act: Commissioner, credit of tax, tax year

Compare: 2004 No 35 s MD 1

LA 8 Remaining refundable credits: non-resident withholding tax payments

What this section applies to

- (1) This section applies to a person's credit of tax remaining for a tax year under section LA 5(5), if it is a credit of tax under section LB 5 (Credits of tax for non-resident withholding tax payments).

Use of credits

- (2) The Commissioner must—
 - (a) treat the credit of tax as tax paid in excess and as transferable under Part 10B of the Tax Administration Act 1994:
 - (b) refund the credit of tax under section MD 1 (Refund of excess tax).

Defined in this Act: Commissioner, credit of tax, tax year

Compare: 2004 No 35 ss LD 2, MD 1

LA 9 Use of credits of tax

An amount of a credit of tax is used once, so far as it extends.

Defined in this Act: amount, credit of tax

Compare: 2004 No 35 ss BC 9, LB 2(2), LE 2(4), LE 2(8)

LA 10 Meaning of credit of tax

An amount is a **credit of tax** of a person if it is their credit of tax under a provision in this Part.

Defined in this Act: amount, credit of tax

Compare: 2004 No 35 s BC 9

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LB 1 Credits of tax for source deduction payments

Amount of credit

- (1) A person who is an employee has, for a tax year, a credit of tax equal to the amount received by the Commissioner for a tax deduction from a source deduction payment relating to the person for the tax year.

Exclusions

- (2) The person's credit under subsection (1) is extinguished if the Commissioner does not receive an employer monthly schedule for the relevant tax deduction, or when the relevant particulars of the employer monthly schedule are incorrect.

Defined in this Act: amount, Commissioner, credit of tax, employee, employer monthly schedule, source deduction payment, tax, tax deduction, tax year

Compare: 2004 No 35 s LD 1(2), (4)

LB 2 Credits of tax for provisional tax payments

A person has, for a tax year, a credit of tax equal to the amount of provisional tax for the tax year paid by—

- (a) the person; or
- (b) an agent of the person, if the agent is liable to pay provisional tax on behalf of the person.

Defined in this Act: agent, amount, credit of tax, provisional tax, tax year

Compare: 2004 No 35 ss LD 6, LD 7

LB 3 Credits of tax for resident withholding tax payments

A person has, for a tax year, a credit of tax equal to the amount of resident withholding tax deducted in relation to their resident withholding income for the tax year, if the evidential requirements in section 78D of the Tax Administration Act 1994 are met.

Defined in this Act: amount, credit of tax, resident withholding income, resident withholding tax, tax year

Compare: 2004 No 35 s LD 3(2)

LB 4 Credits of tax for family income assistance

A person has, for a tax year, a credit of tax equal to the total amount of their family assistance credit under subpart KD (Family assistance credits) and their family tax credit under subpart KE (Family tax credit) for the tax year.

Defined in this Act: amount, credit of tax, family assistance credit, family tax credit, tax year

Compare: 2004 No 35 ss KD 1A, KD 2, KD 3

LB 5 Credits of tax for non-resident withholding tax payments

A person has, for a tax year, a credit of tax equal to the amount of non-resident withholding tax deducted and paid in relation to their non-resident withholding income for the tax year.

Defined in this Act: amount, credit of tax, non-resident withholding income, non-resident withholding tax, pay, tax year

Compare: 2004 No 35 s LD 2

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Credits of tax for persons on low incomes

LC 1 When net income under low income amount

When this section applies

- (1) This section applies to a natural person who is not an absentee and whose net income for the tax year is equal to or less than the low income amount set out in schedule 1, part C (Basic rates of income tax and specified superannuation contribution withholding tax).

New Zealand superannuation and veteran's pensions

- (2) A New Zealand superannuitant or a person receiving a veteran's pension has a credit of tax equal to an amount calculated using the formula—

$$\text{person's net income} \times 0.045.$$

Definition of item in formula

- (3) In the formula in subsection (2), **person's net income** is the person's net income for the tax year in complete dollars.

Other persons

- (4) A person who is not a New Zealand superannuitant or a person receiving a veteran's pension has a credit of tax equal to an amount calculated using the formula—

$$(\text{person's net income} - (\text{total assessable income} - \text{total deductions})) \times 0.045.$$

Definition of items in formula

- (5) In the formula in subsection (4),—
- (a) **person's net income** is the person's net income for the tax year in complete dollars:
 - (b) **total assessable income** is the total amount of the person's assessable income that is interest, dividends, royalties, rents, beneficiary income, taxable distributions under section HH 3 (Income of beneficiaries), and taxable Maori authority distributions allocated to the tax year referred to in paragraph (a):
 - (c) **total deductions** is the total amount of deductions allowed for expenditure incurred in deriving the person's assessable income as described in paragraph (b) to the extent to which it is not more than the amount of the assessable income, allocated to the tax year referred to in paragraph (a).

Defined in this Act: absentee, amount, assessable income, beneficiary income, credit of tax, deduction, dividend, interest, net income, New Zealand superannuation, New Zealand superannuitant, tax year, taxable distribution, taxable Maori authority distribution, veteran's pension

Compare: 2004 No 35 s KC 1(1)(a), (b), (4)

LC 2 When net income in low income abatement range

When this section applies

- (1) This section applies to a natural person who is not an absentee and whose net income for the tax year is in the low income abatement range set out in schedule 1, part C (Basic rates of income tax and specified superannuation contribution withholding tax).

New Zealand superannuation and veteran's pensions

- (2) A New Zealand superannuitant or a person receiving a veteran's pension has a credit of tax equal to an amount calculated using the formula—

$$\$427.50 - ((\text{person's net income} - \$9,500) \times 0.015).$$

Definition of item in formula

- (3) In the formula in subsection (2), **person's net income** is the person's net income for the tax year in complete dollars.

Other persons

- (4) A person who is not a New Zealand superannuitant or a person receiving a veteran's pension has a credit of tax equal to an amount calculated using the formula—

$$\text{regulated amount} - ((\text{person's net income} - \$9,500) \times 0.015).$$

Definition of items in formula

- (5) In the formula in subsection (4),—
- (a) **regulated amount** is the lesser of—
- (i) \$427.50; and
 - (ii) an amount calculated using the formula in subsection (6) in complete dollars:
- (b) **person's net income** is the person's net income for the tax year in complete dollars.

Formula

- (6) The formula referred to in subsection (5)(a)(ii) is—

$$(\text{person's net income} - (\text{total assessable income} - \text{total deductions})) \times 0.045.$$

Definition of items in formula

- (7) In the formula in subsection (6),—
- (a) **person's net income** is the person's net income for the tax year in complete dollars:
 - (b) **total assessable income** is the total amount of the person's assessable income that is interest, dividends, royalties, rents, beneficiary income, taxable distributions under section HH 3 (Income of beneficiaries), and taxable Maori authority distributions allocated to the tax year referred to in paragraph (a):
 - (c) **total deductions** is the total deduction allowed for expenditure incurred in deriving the person's assessable income as described in paragraph (b) to the extent to which it is not more than the amount of the assessable income, allocated to the tax year referred to in paragraph (a).

Defined in this Act: absentee, amount, assessable income, beneficiary income, credit of tax, deduction, dividend, interest, net income, New Zealand superannuation, New Zealand superannuitant, tax year, taxable distribution, taxable Maori authority distribution, veteran's pension

Compare: 2004 No 35 s KC 1(1)(c)

Credits of tax for children

LC 3 Child's income

When this section applies

- (1) This section applies if, for a tax year, a person derives income and is younger than—
- (a) 15; or
 - (b) 18 and is attending—
 - (i) a private primary school or a state primary school or a private secondary school or a state secondary school or department (in each case as defined in the Education Act 1964); or
 - (ii) an integrated school (as defined in section 2 of the Private Schools Conditional Integration Act 1975); or
 - (iii) a school providing special education (as defined in the Education Act 1964); or
 - (c) 19 and—
 - (i) during the previous tax year was a person to whom paragraph (b) applied; and

- (ii) turned 18 on or after 1 January in that previous tax year; and
- (iii) continues to attend a school of any of the kinds referred to in paragraph (b).

Exclusion

- (2) If the person has a credit of tax under section LC 4, they are not allowed a credit under this section.

Amount of credit

- (3) The person has a credit of tax equal to an amount that is the lesser of—
- (a) \$156; and
 - (b) an amount calculated using the formula in subsection (4).

Formula

- (4) The formula referred to in subsection (3)(b) is—

$$(\text{person's net income} - \text{person's resident withholding income}) \quad \times \quad \frac{15}{100}.$$

Definition of items in formula

- (5) In the formula,—
- (a) **person's net income** is the person's net income for the tax year:
 - (b) **person's resident withholding income** is the resident withholding income derived by the person in the tax year.

Defined in this Act: amount, child, credit of tax, income, net income, resident withholding income, tax year

Compare: 2004 No 35 s KC 2

Credits of tax for transitional circumstances

LC 4 Credits of tax for transitional circumstances

When this section applies

- (1) This section applies in a tax year to a person who is engaged in full-time work other than a person who—
- (a) is a child younger than 18 (other than a child older than 15 who has stopped going to a school of any of the kinds referred to in section LC 3(1)(b));
 - (b) is treated under section OE 1 (Determination of residence of person other than company) as not resident in New Zealand throughout the tax year;
 - (c) has a credit of tax for the tax year under subpart KB (Adjustment of net income for family income assistance scheme);
 - (d) is throughout the tax year, the spouse, civil union partner, or de facto partner of a person who has, for the tax year, a credit of tax under subpart KB.

Amount of credit

- (2) The person has a credit of tax equal to an amount calculated using the formula—

$$\text{person's net income} \times \frac{\text{weekly periods}}{52}.$$

Definition of items in formula

- (3) In the formula in subsection (2),—
- (a) **person's net income** is—
 - (i) \$728, if the net income of the person for the tax year is less than \$6,241; and
 - (ii) an amount calculated using the formula in subsection (4), if the net income of the person for the tax year is \$6,241 or more;
 - (b) **weekly periods** is the number of periods of 1 week for which the person is engaged in full-time work.

Formula

- (4) The formula referred to in subsection (3)(a)(ii) is—

$$\$728 - ((\text{person's net income} - \$6,240) \times 0.020).$$

Definition of item in formula

- (5) In the formula in subsection (4), **person's net income** means the person's net income for the tax year in complete dollars.

Defined in this Act: amount, child, credit of tax, engaged in full-time work, net income, resident in New Zealand, spouse, tax year

Compare: 2004 No 35 s KC 3(1)

LC 5 Meaning of engaged in full-time work

Meaning

- (1) For the purposes of section LC 4, a person who is **engaged in full-time work**, for a week, means a person who, in the week, is engaged in paid work for at least 20 hours.

Inclusions

- (2) A person **engaged in full-time work** includes a person who is not engaged in paid work for the following reasons:
- (a) if they suffer incapacity due to personal injury by accident for which compensation is or will be paid when otherwise they would have been engaged in paid work:
 - (b) if they are on parental leave during a week for which a parental leave payment is payable under Part 7A of the Parental Leave and Employment Protection Act 1987:
 - (c) if they are temporarily, or for an indefinite period, incapacitated for work through sickness or accident in relation to which a sickness benefit is or will be paid under the Social Security Act 1964 when otherwise they would have been engaged in paid work.

Uniform daily rate

- (3) For the purposes of the definition of **engaged in full-time work**, if the person performs paid work in a pay period that consists of a period longer than 1 week, the person is treated as having been engaged in paid work at a uniform daily rate throughout that pay period.

Meaning of personal injury by accident and compensation

- (4) For the purposes of subsection (2)(a),—
- (a) **personal injury by accident** means—
 - (i) personal injury by accident within the meaning of section 2 of the Accident Compensation Act 1982:
 - (ii) personal injury within the meaning of section 4 of the Accident Rehabilitation and Compensation Insurance Act 1992:

- (iii) personal injury within the meaning of section 13 of the Accident Insurance Act 1998:
 - (iv) personal injury within the meaning of section 6 of the Injury Prevention, Rehabilitation, and Compensation Act 2001:
- (b) **compensation** means—
- (i) earnings related compensation under section 2 of the Accident Compensation Act 1982:
 - (ii) compensation for loss of earnings payable under sections 38, 39, and 43 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (iii) a vocational rehabilitation allowance payable under section 25 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (iv) compensation for loss of potential earning capacity payable under section 45 or 46 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (v) weekly compensation payable under section 58, 59, or 60 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (vi) continued compensation payable under section 138 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (vii) weekly compensation payable under section 428(2) or 429(2) or schedule 1, part 2 of the Accident Insurance Act 1998:
 - (viii) compensation payable under section 445, 446, or 447 or schedule 1, clauses 67, 70, and 71 of the Accident Insurance Act 1998 that is or will be paid when the person would have been engaged in full-time work, if not for the death of another person:
 - (ix) weekly compensation within the meaning of sections 6 and 365 and schedule 1, part 2 of the Injury Prevention, Rehabilitation, and Compensation Act 2001:
 - (x) compensation payable under sections 383, 384, and 385 and schedule 1, clauses 66, 70, and 71 of Injury Prevention, Rehabilitation, and Compensation Act 2001.

Meaning of paid work

- (5) **Paid work**, for a person, means work from, by, or through the performance of which the person derives assessable income.

Defined in this Act: assessable income, compensation, engaged in full-time work, paid work, pay period, personal injury by accident

Compare: 2004 No 35 s KC 3(3) “full-time earner”, “remunerative work”

Credits of tax for housekeeping

LC 6 Credits of tax for housekeeping

Amount of credit

- (1) A person who makes housekeeping payments in a tax year for the services of a housekeeper has a credit of tax equal to the lesser of—
 - (a) \$310; and
 - (b) an amount calculated using the formula in subsection (2).

Formula

- (2) The formula referred to in subsection (1)(b) is—

$$\text{housekeeping payments} \times 0.033.$$

Definition of item in formula

- (3) In the formula, **housekeeping payments** is the amount of housekeeping payments that the person makes during the tax year in complete dollars.

Administrative requirements

- (4) For this section to apply, the requirements of section 41A of the Tax Administration Act 1994 must be met.

Refundable credits

- (5) A credit under this section is a refundable credit of tax under section LA 7 (Remaining refundable credits: family income assistance) and excluded from the application of sections LA 2 to LA 6 (which relate to a person's income tax liability).

Defined in this Act: amount, credit of tax, housekeeper, housekeeping payments, refundable credit of tax, tax year

Compare: 2004 No 35 s KC 4(1), (1A)

LC 7 Meaning of housekeeper

Definition

- (1) For the purposes of section LC 6, **housekeeper**, for a person (**person A**) and a tax year, means,—
 - (a) if person A is a widow, a widower, a surviving civil union partner, a surviving de facto partner, a divorced person, a person whose civil union has been dissolved, a person who is not in a marriage, civil union or de facto relationship, or a separated person,—
 - (i) a person or an institution that has the care and control of a child, either in person A's home or elsewhere; or

- (ii) a person who tends person A's home if the person's services are necessary because of a mental or physical infirmity or disability of person A; or
- (b) if person A is living with their spouse, civil union partner, or de facto partner,—
 - (i) a person or an institution that has the care and control of a child, either in person A's home or elsewhere, if the services of the person or the institution are necessary because of a mental or physical infirmity or disability of person A or their spouse, civil union partner or de facto partner; or
 - (ii) a person who tends person A's home, if the services of the person or the institution are necessary because of a mental or physical infirmity or disability of person A or their spouse, civil union partner or de facto partner; or
- (c) if person A is living with their spouse, civil union partner or de facto partner, a person or an institution that has the care and control of a child, either in person A's home or elsewhere, if the services of the person or the institution are necessary because of the employment or business activities of both person A and their spouse, civil union partner, or de facto partner.

When both partners have credits

- (2) Despite subsection (1)(c), if person A and their spouse, civil union partner, or de facto partner, have a credit under section LC 6, the Commissioner may apportion the amount of the credit between them as is fair and equitable. The maximum amount that may be apportioned in this way is \$310.

Defined in this Act: amount, business, child, Commissioner, employment, home, institution, separated person, spouse, tax year

Compare: 2004 No 35 s KC 4(2)

LC 8 Some other definitions

For the purposes of section LC 6,—

child means a person who is—

- (a) younger than 18; or
- (b) suffering from a mental or physical infirmity or disability affecting their ability to earn their living

home, for a person and a tax year,—

- (a) means the dwelling in which the person resides during the tax year:
- (b) does not include a motel, hotel, boardinghouse, guest house, convalescent home, nursing home, rest home, hospital, hospice, or other similar

establishment, other than a part of an establishment that is occupied by any person regularly engaged in carrying on the activity of operating the establishment or by the person's spouse, civil union partner, or de facto partner

housekeeping payments, in relation to a person and a tax year, means payments—

- (a) made by the person during the tax year for the services of a housekeeper; and
- (b) for which no credit under any other provision of this Act is allowed to the person or to any other person

institution—

- (a) means a creche, day nursery, play centre, kindergarten, or similar body;
- (b) does not, in relation to the care and control of a child who is 5 or older, include an institution that is, in any way, concerned with the education of the child

separated person means a person in a marriage, civil union, or de facto relationship who is in fact separated and living separate and apart from their spouse, civil union partner, or de facto partner, whether under an order of a court, or under an agreement for separation, or otherwise.

Defined in this Act: child, home, housekeeper, institution, separated person, spouse, tax year

Compare: 2004 No 35 s KC 4(2)

Credits of tax for absentees

LC 9 Credits of tax for absentees

When this section applies

- (1) This section applies when—
 - (a) an absentee has derived assessable income from their personal services while they are personally present in New Zealand in a tax year; and
 - (b) the absentee would have a credit of tax under any of sections LC 1 to LC 6 if they were not an absentee.

Amount of credit of tax under applicable section

- (2) The absentee has a credit of tax under the applicable section equal to an amount calculated using the formula—

$$\text{credit amount} \quad \times \quad \frac{\text{days}}{365}.$$

Definition of items in formula

- (3) In the formula,—
- (a) **credit amount** is the credit of tax that the person would have under the applicable section if they were not an absentee:
 - (b) **days** is the total number of days in the period for which the person is paid for regular pay periods for the personal services.

Defined in this Act: absentee, amount, assessable income, credit of tax, New Zealand, pay period, tax year

Compare: 2004 No 35 s KF 3

Adjustments to certain credits of tax

LC 10 Adjustment for change in return date

When this section applies

- (1) This section applies when—
- (a) section 39 of the Tax Administration Act 1994 applies to a person; and
 - (b) for the purposes of that section, the person provides a return of income for a period that is—
 - (i) less than a year; or
 - (ii) more than a year.

Adjustment

- (2) The amount of the total credits of tax that the person has under this subpart is adjusted using the formula—

$$\text{person's total credits} \quad \times \quad \frac{\text{days}}{365}.$$

Definition of items in formula

- (3) In the formula,—
- (a) **person's total credits** is the total of the person's credits of tax under sections LC 1 to LC 6:
 - (b) **days** is the number of days in the period for which the person provides the return.

Defined in this Act: amount, return of income, year

Compare: 2004 No 35 s KB 2

LC 11 Adjustment when person is non-resident for part of tax year

When this section applies

(1) This section applies—

- (a) for the purposes of sections LC 1, LC 2, and LC 4; and
- (b) when a person is a non-resident for part of a tax year.

Amount of credit of tax under applicable section

(2) The person's credit of tax under the applicable section is calculated—

- (a) first, by determining an annualised amount for the person's net income calculated using the formula in subsection (3); and
- (b) second, by using the annualised amount calculated under paragraph (a) in the calculation of the credit in the applicable section; and
- (c) third, by reducing the amount of the credit by using the formula in subsection (5).

Formula: increasing net income

(3) The formula referred to in subsection (2)(a) is—

$$\text{person's net income} \quad \times \quad \frac{365}{\text{days}}$$

Definition of items in formula

(4) In the formula in subsection (3),—

- (a) **person's net income** is the amount of the person's net income for the period that the person is a New Zealand resident;
- (b) **days** is the total number of days for which the person is a New Zealand resident.

Formula: reducing amount of credit

(5) The formula referred to in subsection (2)(c) is—

$$\text{person's total credit} \quad \times \quad \frac{\text{days}}{365}$$

Definition of items in formula

(6) In the formula in subsection (5),—

- (a) **person's total credit** is the total of the person's credits of tax under the applicable section:

- (b) **days** is the total number of days for which the person is a New Zealand resident.

Relationship with section LC 12

- (7) This section is overridden by section LC 12.

Defined in this Act: amount, credit of tax, New Zealand resident, net income, non-resident, tax year, total credit of tax

Compare: 2004 No 35 ss KC 1(2), KC 3(2)

LC 12 Assessment when person is non-resident

When this section applies

- (1) This section applies—
- (a) for the purposes of sections LC 1, LC 2, and LC 4; and
 - (b) when a person for a tax year derives assessable income from New Zealand during the part of the tax year when the person is a non-resident.

Determination of net income

- (2) The Commissioner may determine the amount of the net income of the person for the tax year.

Fairness of determination

- (3) A determination under subsection (2) must be fair, having regard to—
- (a) the kind of assessable income derived by the person; and
 - (b) the circumstances in which the assessable income is derived; and
 - (c) any other matters the Commissioner considers relevant.

Defined in this Act: amount, assessable income, assessment, Commissioner, derived from New Zealand, net income, non-resident, tax year

Compare: 2004 No 35 ss KC 1(3), KC 3(2)

Subpart LD—Credits of tax for gifts of money

Contents

- LD 1 Credits of tax for gifts of money
- LD 2 Exclusions
- LD 3 Meaning of gift of money

LD 1 Credits of tax for gifts of money

Amount of credit

- (1) A person who makes a gift of money in a tax year has, for the tax year, a credit of tax equal to the lesser of—
 - (a) \$630; and
 - (b) an amount calculated using the formula in subsection (2).

Formula

- (2) The formula referred to in subsection (1)(b) is—

$$\text{total gifts} \times 33\frac{1}{3}\%.$$

Definition of item in formula

- (3) In the formula, **total gifts** means the total of all gifts of money made by the person in the tax year.

Administrative requirements

- (4) For this section to apply, the requirements of section 41A of the Tax Administration Act 1994 must be met. However, the requirements are modified if a tax agent applies for a refund under section 41A on behalf of a person and—
 - (a) the tax agent sees the receipt for the person's gift of money; and
 - (b) the person retains the receipt for 4 tax years after the tax year to which the claim relates.

Refundable credits

- (5) A credit under this section is a refundable credit of tax under section LA 7 (Remaining refundable credits: family income assistance) and is excluded from the application of sections LA 2 to LA 6 (which relate to a person's income tax liability).

Defined in this Act: amount, credit of tax, gift of money, refundable credit of tax, tax agent, tax year

Compare: 2004 No 35 s KC 5

LD 2 Exclusions

This subpart does not apply to any of the following persons:

- (a) an absentee:
- (b) a company:
- (c) a public authority:
- (d) a Maori authority:
- (e) an unincorporated body:
- (f) a trustee liable for income tax under sections HH 3 to HH 6, and HZ 2 (which relate to trusts and distributions from trusts).

Defined in this Act: absentee, company, income tax, Maori authority, public authority, trustee

Compare: 2004 No 35 s KC 5

LD 3 Meaning of gift of money

Meaning

- (1) For the purposes of this subpart, a **gift of money**—
 - (a) means a gift of \$5 or more that is paid to a society, institution, association, organisation, trust, or fund, described in subsection (2) or listed in schedule 12A (Listed societies, institutions, associations, organisations, trusts, or funds for purposes of section LD 3):
 - (b) includes a subscription paid to a society, institution, association, organisation, trust, or fund, only if the subscription does not confer any rights arising from membership in that or any other society, institution, association, organisation, trust, or fund:
 - (c) does not include a testamentary gift.

Description of organisations

- (2) The following are the entities referred to in subsection (1)(a):
 - (a) a society, institution, association, organisation, or trust that is not carried on for the private pecuniary profit of an individual and whose funds applied wholly or mainly to charitable, benevolent, philanthropic, or cultural purposes within New Zealand:
 - (b) a public institution maintained exclusively for any 1 or more of the purposes within New Zealand set out in paragraph (a):
 - (c) a fund established and maintained exclusively for the purpose of providing money for any 1 or more of the purposes within New Zealand

set out in paragraph (a), by a society, institution, association, organisation, or trust that is not carried on for the private pecuniary profit of an individual:

- (d) a public fund established and maintained exclusively for the purpose of providing money for any 1 or more of the purposes within New Zealand set out in paragraph (a).

Defined in this Act: charitable purpose, gift, New Zealand, trust

Compare: 2004 No 35 s KC 5

Subpart LE - Credits of tax for imputation credits

Contents

- LE 1 Credits of tax for imputation credits
- LE 2 Use of remaining credits by companies and trustees
- LE 3 Use of remaining credits by others
- LE 4 Trustees for minor beneficiaries
- LE 5 Beneficiaries of trusts
- LE 6 Partners in partnerships
- LE 7 Application of imputation ratio
- LE 8 Application of combined imputation and dividend withholding payment ratio
- LE 9 Failure to pay tax
- LE 10 Evidential requirements

LE 1 Credits of tax for imputation credits

Amount of credit

- (1) A person whose assessable income for an income year includes an imputation credit has a credit of tax for the tax year corresponding to the income year of an amount equal to the sum of the amount of the imputation credit and any credit carried forward from an earlier tax year.

When amount altered

- (2) The amount of the person's credit in subsection (1) may be reduced or increased if any of sections LE 4 to LE 10 apply.

Arrangements for tax advantage

- (3) A person's credit under this section is extinguished if section GC 22 (Imputation: arrangement to obtain tax advantage) applies.

Defined in this Act: amount, assessable income, corresponding income year, credit of tax, imputation credit, income year, tax year

Compare: 2004 No 35 ss LB 1(1)(k), LB 2(1)

LE 2 Use of remaining credits by companies and trustees

When this section applies

- (1) This section applies when a person described in subsection (2) has an amount of credit of tax remaining for a tax year under section LA 5(4) (Treatment of remaining credits of tax).

Certain persons only

- (2) The person referred to in subsection (1) must be—
- (a) a company; or
 - (b) a trustee (other than the Maori trustee); or
 - (c) a Maori authority.

Calculating amount of net loss

- (3) The person has a net loss for the corresponding income year equal to an amount calculated using the formula—

$$\frac{\text{person's remaining credit}}{\text{tax rate.}}$$

Definition of items in formula

- (4) In the formula,—
- (a) **person's remaining credit** is the amount of the credit of tax remaining for the tax year under section LA 5(4):
 - (b) **tax rate** is the applicable basic tax rate for the person set out in schedule 1 part A (Basic rates of income tax and specified superannuation contribution withholding tax), expressed as a decimal.

Defined in this Act: applicable basic tax rate, company, corresponding income year, credit of tax, income year, Maori authority, net loss, tax year, trustee

Compare: 2004 No 35 s LB 2(3)

LE 3 Use of remaining credits by others

When this section applies

- (1) This section applies when a person other than a person referred to in section LE 2(2) has an amount of credit of tax remaining for a tax year under section LA 5(4) (Treatment of remaining credits of tax).

Amount carried forward

- (2) The person may carry the amount forward to the next tax year as a credit carried forward.

Defined in this Act: amount, credit of tax, tax year

Compare: 2004 No 35 s LB 2(2B), (3B), (3C)

LE 4 Trustees for minor beneficiaries

When this section applies

- (1) This section applies when a person who has a credit of tax under section LE 1 is the trustee of a trust for a minor who derives beneficiary income from the trust.

Trustee treated as beneficiary

- (2) To the extent to which section HH 3A(1) (Beneficiary income of minors) applies, the person is treated as deriving the minor's beneficiary income as a beneficiary.

Defined in this Act: beneficiary income, credit of tax, minor, trust, trustee

Compare: 2004 No 35 ss LB 1(1)(ab), LB 1A

LE 5 Beneficiaries of trusts

When this section applies

- (1) This section applies when a person who has a credit of tax under section LE 1 is the beneficiary of a trust, and in that capacity, derives a dividend with an imputation credit attached.

Limitation on amount of credit

- (2) The person's credit of tax is limited to an amount calculated using the formula—
- $$\frac{\text{person's distributions}}{\text{trust distributions}} \times \text{total beneficiary credits} - \text{person's supplementary dividend.}$$

Definition of items in formula

- (3) In the formula,—
- (a) **person's distributions** is the total distributions for the tax year made to the person in their capacity as beneficiary of the trust:
 - (b) **trust distributions** is the total distributions for the tax year made to all beneficiaries of the trust in their capacity as beneficiaries, and includes all supplementary dividends paid to them:
 - (c) **total beneficiary credits** is the total imputation credits attached to dividends for the tax year paid to all beneficiaries of the trust in their capacity as beneficiaries:
 - (d) **person's supplementary dividend** is the total supplementary dividends for the tax year paid to the person in their capacity as beneficiary of the trust.

Defined in this Act: amount, credit of tax, distribution, dividend, imputation credit, supplementary dividend, tax year, trust

Compare: 2004 No 35 s LB 1(1)(a), (2), (3), (3A)

LE 6 Partners in partnerships

When this section applies

- (1) This section applies when a person who has a credit of tax under section LE 1 is a partner in a partnership, and through the partnership, derives a dividend with an imputation credit attached.

Limitation on amount of credit

- (2) The person's credit is limited to an amount calculated using the formula—

$$\frac{\text{partner's income}}{\text{partnership income}} \times \text{partnership imputation credits} - \text{partner's supplementary dividend.}$$

Definition of items in formula

- (3) In the formula,—
- (a) **partner's income** is the income of the person for the tax year derived as a partner of the partnership, excluding—
- (i) any imputation credits and dividend withholding payment credits attached to any dividends derived by the person:
 - (ii) any supplementary dividends derived by the person as a non-resident partner of the partnership:
- (b) **partnership income** is the total assessable income for the tax year of all the partners of the partnership, excluding—
- (i) all imputation credits and dividend withholding payment credits attached to any dividends derived by the partners:
 - (ii) all supplementary dividends derived by non-resident partners of the partnership:
- (c) **partnership imputation credits** is the total imputation credits attached to dividends for the tax year derived by all partners of the partnership:
- (d) **partner's supplementary dividend** is the total supplementary dividends for the tax year derived by the person as a non-resident partner of the partnership.

Defined in this Act: amount, assessable income, credit of tax, dividend, dividend withholding payment credit, imputation credit, non-resident, supplementary dividend, tax year

Compare: 2004 No 35 s LB 1(1)(b), (4), (4A), (4B)

LE 7 Application of imputation ratio

When this section applies

- (1) This section applies when a person who has a credit of tax under section LE 1 receives an imputation credit attached to a dividend, and the dividend has an imputation ratio greater than the ratio calculated under section ME 8(1) (Allocation rules for imputation credits).

Amount of reduction

- (2) The person's credit is reduced by an amount equal to the amount by which the credit is greater than the ratio.

Defined in this Act: amount, credit of tax, dividend, imputation credit, imputation ratio

Compare: 2004 No 35 s LB 1(1)(c)

LE 8 Application of combined imputation and dividend withholding payment ratio

When this section applies

- (1) This section applies when—
- (a) a person who has a credit of tax under section LE 1 receives an imputation credit and a dividend withholding payment credit attached to a dividend; and
 - (b) an excess credit amount arises in relation to the dividend; and
 - (c) the dividend withholding payment credit is equal to or less than the excess credit amount.

Amount of reduction

- (2) The person's credit for the dividend is reduced by an amount calculated using the formula—

excess credit amount for dividend – attached dividend withholding payment credit.

Definition of items in formula

- (3) In the formula,—
- (a) **excess credit amount for dividend** is the excess credit amount for the dividend;
 - (b) **attached dividend withholding payment credit** is the dividend withholding payment credit for the dividend.

Defined in this Act: amount, combined imputation and dividend withholding payment ratio, credit of tax, dividend, dividend withholding payment credit, excess credit amount, imputation credit

Compare: 2004 No 35 s LB 1(1)(e), (5)

LE 9 Failure to pay tax

When this section applies

- (1) This section applies when—
- (a) a person has a credit of tax under section LE 1 and an imputation credit is attached to a dividend; and
 - (b) the dividend is paid by a company who has debit balance in their imputation credit account at the end of the tax year; and
 - (c) the company has not paid further income tax by the due date referred to in section ME 9(2) (Further tax payable where end of year debit balance, or when company ceases to be imputation credit account company).

Amount of reduction

- (2) The Commissioner may reduce the person's credit by an amount equal to their proportion of the unpaid amount under subsection (1)(c).

When failure to pay remedied

- (3) To the extent to which a company remedies the failure after the due date, this section does not apply.

Defined in this Act: amount, Commissioner, company, credit of tax, dividend, further income tax, imputation credit, imputation credit account, tax year

Compare: 2004 No 35 ss LB 1(1)(h), LB 2(5), (6)

LE 10 Evidential requirements

If a person who has a credit of tax under section LE 1 does not satisfy the evidential requirements in section 78D of the Tax Administration Act 1994, the person's credit may be reduced.

Defined in this Act: credit of tax

Compare: 2004 No 35 ss LB 1(1)(f), LB 2(4)

Subpart LF - Credits of tax for dividend withholding payment credits

Contents

- LF 1 Credits of tax for dividend withholding payment credits
- LF 2 Trustees for minor beneficiaries
- LF 3 Beneficiaries of trusts
- LF 4 Partners in partnerships
- LF 5 Application of dividend withholding payment ratio
- LF 6 Application of combined imputation and dividend withholding payment ratio
- LF 7 Credits for persons who are non-resident or who receive exempt income
- LF 8 Failure to pay tax
- LF 9 Evidential requirements

LF 1 Credits of tax for dividend withholding payment credits

Amount of credit

- (1) A person whose assessable income for an income year includes a dividend withholding payment credit has a credit of tax equal to the amount of the dividend withholding payment credit for the tax year corresponding to the income year.

When amount altered

- (2) The amount of the person's credit in subsection (1) may be reduced or increased if any of sections LF 2 to LF 8 apply.

Arrangements for tax advantage

- (3) A person's credit of tax under this section is extinguished if section GC 22 (Imputation: arrangement to obtain tax advantage) applies.

Relationship of sections in this subpart

- (4) Sections LF 1 to LF 6, LF 8 and LF 9 do not apply in relation to a non-resident or a person who receives exempt income as set out in section LF 7.

Defined in this Act: amount, assessable income, corresponding income year, credit of tax, dividend withholding payment credit, income year, tax year

Compare: 2004 No 35 ss LB 1(1)(l), LD 8(1)

LF 2 Trustees for minor beneficiaries

When this section applies

- (1) This section applies when a person who has a credit of tax under section LF 1 is the trustee of a trust for a minor who derives beneficiary income from the trust.

Trustee treated as beneficiary

- (2) To the extent to which section HH 3A(1) (Beneficiary income of minors) applies, the person is treated as deriving the minor's beneficiary income as a beneficiary.

Defined in this Act: beneficiary income, credit of tax, minor, trust, trustee

Compare: 2004 No 35 s LB 1(1)(ab), LD 1A

LF 3 Beneficiaries of trusts

When this section applies

- (1) This section applies when a person who has a credit of tax under section LF 1 is the beneficiary of a trust, and in that capacity, derives a dividend with a dividend withholding payment credit attached.

Limitation on amount of credit

- (2) The person's credit of tax is limited to an amount calculated using the formula—
- $$\frac{\text{person's distributions}}{\text{trust distributions}} \times \text{total beneficiary credits} - \text{person's supplementary dividend.}$$

Definition of items in formula

- (3) In the formula,—
- (a) **person's distributions** is the total distributions for the tax year made to the person in their capacity as beneficiary of the trust:
 - (b) **trust distributions** is the total distributions for the tax year made to all beneficiaries of the trust in their capacity as beneficiaries, and includes all supplementary dividends paid to them:
 - (c) **total beneficiary credits** is the total dividend withholding payment credits attached to dividends for the tax year paid to all beneficiaries of the trust in their capacity as beneficiaries:
 - (d) **person's supplementary dividend** is the total supplementary dividends for the tax year paid to the person in their capacity as beneficiary of the trust.

Defined in this Act: amount, credit of tax, distribution, dividend, dividend withholding payment credit, supplementary dividend, tax year, trust

Compare: 2004 No 35 s LB 1(1)(a), (2), (3), (3A)

LF 4 Partners in partnerships

When this section applies

- (1) This section applies when a person who has a credit of tax under section LF 1 is a partner in a partnership, and through the partnership, derives a dividend with a dividend withholding payment credit attached.

Limitation on amount of credit

- (2) The person's credit is limited to an amount calculated using the formula—

$$\frac{\text{partner's income}}{\text{partnership income}} \times \text{partnership dwp credits} - \text{partner's supplementary dividend.}$$

Definition of items in formula

- (3) In the formula,—
- (a) **partner's income** is the total assessable income of the person for the tax year derived as a partner of the partnership, excluding—
- (i) any imputation credits and dividend withholding payment credits attached to any dividends derived by the person:
 - (ii) any supplementary dividends derived by the person as a non-resident partner of the partnership:
- (b) **partnership income** is the total assessable income for the tax year of all the partners of the partnership, excluding—
- (i) all imputation credits and dividend withholding payment credits attached to any dividends derived by the partners:
 - (ii) all supplementary dividends derived by non-resident partners of the partnership:
- (c) **partnership dwp credits** is the total dividend withholding payment credits attached to dividends derived for the tax year by all partners of the partnership:
- (d) **partner's supplementary dividend** is the total supplementary dividends for the tax year derived by the person as a non-resident partner of the partnership.

Defined in this Act: amount, assessable income, credit of tax, dividend, dividend withholding payment credit, imputation credit, non-resident, supplementary dividend, tax year

Compare: 2004 No 35 ss LB 1(1)(b), (4), (4A), (4B)

LF 5 Application of dividend withholding payment ratio

When this section applies

- (1) This section applies when a person who has a credit of tax under section LF 1 receives a dividend withholding payment credit attached to a dividend, and the dividend has a dividend withholding payment ratio greater than the ratio calculated under section MG 8(1) (Allocation rules for dividend withholding payment credits).

Amount of reduction

- (2) The person's credit is reduced by an amount equal to the amount by which the credit is greater than the ratio.

Defined in this Act: amount, credit of tax, dividend, dividend withholding payment credit, dividend withholding payment ratio

Compare: 2004 No 35 s LB 1(1)(d)

LF 6 Application of combined imputation and dividend withholding payment ratio

When this section applies

- (1) This section applies when—
- (a) a person who has a credit of tax under section LF 1 receives an imputation credit and a dividend withholding payment credit attached to a dividend; and
 - (b) an excess credit amount arises in relation to the dividend.

Amount of reduction

- (2) The person's credit is reduced by an amount that is equal to the excess credit amount for the dividend, or the amount of the dividend withholding payment credit if it is less than the excess credit amount.

Defined in this Act: amount, combined imputation and dividend withholding payment ratio, credit of tax, dividend, dividend withholding payment credit, excess credit amount, imputation credit

Compare: 2004 No 35 s LB 1(1)(e), (5)

LF 7 Credits for persons who are non-resident or who receive exempt income

When this section applies

- (1) This section applies for a tax year when a person is a shareholder of a company resident in New Zealand that pays a dividend to the person with a dividend withholding payment credit attached, and the person is—
- (a) non-resident; or
 - (b) resident in New Zealand but a person for whom the dividend is exempt income other than under sections CW 9 to CW 11 (which relate to income from equity).

Amount of credit of tax

- (2) The person has, for the tax year, a credit of tax equal to the amount of the dividend withholding payment credit attached to the dividend.

When amount altered

- (3) The amount of the person's credit in subsection (2) may be reduced or increased to the extent to which—
- (a) any of sections LF 2 to LF 7 apply:
 - (b) a dividend withholding payment credit is used for a tax year to reduce the person's liability under section NG 2(2) (Non-resident withholding tax imposed).

Arrangements for tax advantage

- (4) A person's credit of tax under this section is extinguished if section GC 22 (Imputation: arrangement to obtain tax advantage) applies.

Refunds

- (5) To obtain a refund of the credit, the person must—
- (a) ask the Commissioner for the refund after the 31 May that follows the end of the tax year; and
 - (b) meet the requirements of section 78D of the Tax Administration Act 1994.

Defined in this Act: amount, arrangement, Commissioner, company, credit of tax, dividend, dividend withholding payment credit, exempt income, non-resident, resident in New Zealand, shareholder, tax year

Compare: 2004 No 35 s LD 9

LF 8 Failure to pay tax

When this section applies

- (1) This section applies when—
- (a) a person has a credit of tax under section LF 1 and a dividend withholding payment credit is attached to a dividend; and
 - (b) the dividend is paid by a company who has debit balance in their dividend withholding payment credit account at the end of the tax year; and
 - (c) the company has not paid further income tax by the due date referred to in section ME 9(2) (Further tax payable where end of year debit balance, or when company ceases to be imputation credit account company).

Amount of reduction

- (2) The Commissioner may reduce the person's credit by an amount equal to their proportion of the unpaid amount under subsection (1)(c).

When failure to pay remedied

- (3) To the extent to which a company remedies the failure after the due date, this section does not apply.

Defined in this Act: amount, Commissioner, company, credit of tax, dividend, dividend withholding payment credit, dividend withholding payment credit account, further income tax, tax year

Compare: 2004 No 35 ss LB 1(1)(i), LD 8(4), (5)

LF 9 Evidential requirements

If a person who has a credit of tax under section LF 1 does not satisfy the evidential requirements in section 78D of the Tax Administration Act 1994, the person's credit may be reduced.

Defined in this Act: credit of tax

Compare: 2004 No 35 ss LB 1(1)(g), LD 8(3)

Subpart LJ - Credits of tax for foreign income tax

Contents

- LJ 1 What this subpart does
- LJ 2 Credits of tax for foreign income tax
- LJ 3 Meaning of foreign income tax
- LJ 4 Meaning of slice of foreign-sourced income
- LJ 5 Calculation of New Zealand tax
- LJ 6 Taxable distributions and NRWT rules
- LJ 7 Repaid foreign tax

LJ 1 What this subpart does

When credits of tax allowed

- (1) This subpart provides the rules for dividing assessable income from foreign-sourced amounts into slices, and allowing a credit of tax for foreign income tax paid in relation to a slice of that income.

Limited application of rules

- (2) The rules in this subpart apply only when—
 - (a) a person resident in New Zealand derives assessable income that is not derived from New Zealand; and
 - (b) foreign income tax is not paid in a country or territory listed in schedule 6 (Countries whose taxes receive limited recognition for certain New Zealand tax purposes) to the extent to which the foreign income tax is paid on the types of income listed in the schedule.

Defined in this Act: assessable income, credit of tax, derived from New Zealand, foreign income tax, resident in New Zealand

Compare: 2004 No 35 ss LC 1(1), (3), LC 14

LJ 2 Credits of tax for foreign income tax

Amount of credit

- (1) A person described in section LJ 1(2)(a) has, for a tax year, a credit of tax for an amount of foreign income tax paid on a slice of foreign-sourced income,

determined as if the slice were the net income of the person for the tax year. The amount of the New Zealand tax payable is calculated under section LJ 5.

Limitation on amount of credit

- (2) The amount of the person's credit in subsection (1) must not be more than the income tax liability that the person would have under section BC 9 (Satisfaction of income tax liability).

Amount altered

- (3) The amount of the person's credit in subsection (1) may be reduced or increased if either section LJ 6 or LJ 7 applies.

When person both resident in New Zealand and another country

- (4) A person described in section LJ 1(2)(a) who has, because they are a citizen or resident of, or are domiciled in a foreign country, paid foreign income tax on their assessable income, has a credit under subsection (1). However, the amount of the credit is limited to the amount of foreign income tax that would have been paid in the foreign country if the person were treated as not a citizen or resident of, or domiciled in, that foreign country.

Defined in this Act: amount, assessable income, credit of tax, foreign income tax, income tax liability, net income, New Zealand, resident in New Zealand, slice of foreign-sourced income, tax year

Compare: 2004 No 35 ss LC 1(1), LC 2

LJ 3 Meaning of foreign income tax

Foreign income tax means an amount that, if paid, would satisfy a person's obligations in a foreign country in relation to amounts that have the same nature as income tax.

Defined in this Act: amount, income tax

Compare: 2004 No 35 s LC 1(1)

LJ 4 Meaning of slice of foreign-sourced income

A person has a **slice of foreign-sourced income** equal to an amount of assessable income derived from 1 foreign country that comes from 1 source or is of 1 nature.

Defined in this Act: amount, assessable income

Compare: 2004 No 35 s LC 14

LJ 5 Calculation of New Zealand tax

What this section does

- (1) This section provides the rules for calculating the amount of New Zealand tax that relates to a slice of foreign-sourced income of a person.

Calculation for single slice

- (2) If the person has a notional income tax liability of more than zero, the amount of New Zealand tax relating to the slice is calculated using the formula—

$$\frac{(\text{slice} - \text{person's deductions})}{\text{person's net income}} \times \text{notional liability.}$$

Definition of items in formula

- (3) In the formula in subsection (2),—
- (a) **slice** is the amount of the slice of foreign-sourced income:
 - (b) **person's deductions** is the amount of the person's deductions for the tax year attributable to the slice of foreign-sourced income:
 - (c) **person's net income** is the person's net income for the tax year under section BC 4(1) to (3) (Net income and net loss):
 - (d) **notional liability** is the person's notional income tax liability.

Modification to results of formula for single slice

- (4) The amount referred to in subsection (2) is modified if the net income that the person would have if their only income were from their slices of foreign-sourced income for the tax year is greater than their actual net income for the tax year. The result of the calculation in subsection (2) is adjusted for each slice by multiplying the individual amounts by the following ratio:

$$\frac{\text{person's notional income tax liability}}{\text{NZ tax under subsection (2) for all slices.}}$$

Person's notional income tax liability

- (5) For the purposes of this section, a person's notional income tax liability for a tax year is calculated using the formula—

$$(\text{person's net income} - \text{losses}) \times \text{tax rate.}$$

Definition of items in formula

- (6) In the formula in subsection (5),—
- (a) **person's net income** is the person's net income for the tax year:
 - (b) **losses** is an amount of net loss that the person has subtracted from their net income under subparts IE and IF (which relate to the treatment of net losses by a person):

- (c) **tax rate** is the applicable basic tax rate for the person set out in schedule 1 part A (Basic rates of income tax and specified superannuation contribution withholding tax), expressed as a decimal.

Defined in this Act: amount, applicable basic tax rate, deduction, income tax liability, net income, net loss, New Zealand, slice of foreign-sourced income, tax year

Compare: 2004 No 35 s LC 14

LJ 6 Taxable distributions and NRWT rules

When this section applies

- (1) This section applies when a person who is a beneficiary of a trust and resident in New Zealand derives a taxable distribution in their capacity as beneficiary of the trust.

When credit not allowed

- (2) The person is not allowed a credit of tax in relation to any foreign income tax paid on the taxable distribution unless the tax has substantially the same nature as non-resident withholding tax under the NRWT rules.

Amount of credit

- (3) The person's credit of tax is equal to an amount calculated using the formula—

$$\frac{\text{person's taxable distribution}}{\text{total distribution}} \times \text{foreign tax paid.}$$

Definition of items in formula

- (4) In the formula,—
- (a) **person's taxable distribution** is the amount of the taxable distribution derived by the person in their capacity as beneficiary of the trust, including a payment of tax that meets the requirements of subsection (2):
 - (b) **total distribution** is the total amount of the distribution derived by the person in their capacity as beneficiary of the trust, including a payment of tax that meets the requirements of subsection (2):
 - (c) **foreign tax paid** is the payment of tax that meets the requirements of subsection (2).

Defined in this Act: amount, credit of tax, distribution, foreign income tax, NRWT rules, resident in New Zealand, taxable distribution

Compare: 2004 No 35 s LC 1(2)

LJ 7 Repaid foreign tax

When this section applies

- (1) This section applies for a tax year when a person described in section LJ 1(2)(a) has paid an amount of foreign tax and they, or another person who paid the tax, or a person associated with either of them, receive repaid foreign tax that is—
 - (a) a refund or repayment of some or all of the foreign tax; or
 - (b) an amount or a benefit (including the remission of a debt) determined, directly or indirectly, by reference to some or all of the amount of the foreign tax.

Liability for amount

- (2) If the person has used, under section LA 2 or LA 4 (which relate to the person's income tax liability), a credit under section LJ 2 for the tax year, they are liable to the Commissioner for an amount equal to the amount of repaid foreign tax.

When repaid tax relates to CFCs

- (3) If the person has used, under section LA 2 or LA 4, a credit under section LK 1 (Credits of tax relating to attributed CFC income) for the tax year, and the repaid foreign tax relates to a CFC—
 - (a) the amount of credit carried forward of the person is extinguished to the extent of the repaid foreign tax; and
 - (b) the person is liable to the Commissioner for an amount of the repaid foreign tax that remains after paragraph (a) is applied.

When liability payable

- (4) The liability to the Commissioner under subsections (2) and (3) is treated as income tax payable 30 days after the later of the following dates:
 - (a) the date of the notice of assessment in relation to which the person has used the credit:
 - (b) the date on which the person or another person who paid the tax, or a person associated with either of them, receives the repaid foreign tax.

Defined in this Act: amount, assessment, associated person, Commissioner, credit of tax, foreign tax, income tax, notice, tax year

Compare: 2004 No 35 ss LC 1(3A), (3B), LC 3

Subpart LK - Credits of tax relating to attributed CFC income

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Amounts of credits

LK 1 Credits of tax relating to attributed CFC income

Amount of credit

- (1) A person who has an amount of attributed CFC income for an income year has, for the tax year corresponding to the income year, a credit of tax equal to the amount of income tax or foreign income tax paid or payable in New Zealand or in a foreign country in relation to the attributed CFC income.

Amount altered

- (2) The amount of the person's credit in subsection (1) may be reduced or increased if section LK 7 applies.

Limitation to quarantined amount

- (3) The person's use, under section LA 2 (Satisfaction of income tax liability), of a credit referred to in subsection (1) is limited to the amount (**quarantined amount**) that would be their income tax liability for the tax year if their only assessable income were attributed CFC income derived from a CFC resident in the foreign country referred to in subsection (1) in the accounting period in which the amount of tax giving rise to the credit was paid or payable. The quarantined amount is determined as if the amount of any credit of tax for a conduit tax relief company under subpart LL (Underlying foreign credits) were zero.

Withholding tax

- (4) In subsection (1), a payment of income tax or foreign income tax includes a payment of withholding tax.

Defined in this Act: accounting period, amount, assessable income, attributed CFC income, CFC, conduit tax relief company, corresponding income year, credit of tax, foreign income tax, income tax, income tax liability, income year, New Zealand, quarantined amount, tax year

Compare: 2004 No 35 s LC 4(1), (4)

LK 2 Calculation of amount of credit

Amount of credit

- (1) For the purposes of section LK 1(1), the amount of a credit of tax for a tax year for a person is equal to an amount calculated using the formula—

$$\text{EX 18 income interest} \times (\text{tax paid} - \text{excluded foreign tax}).$$

Definition of items in formula

- (2) In the formula,—
- (a) **EX 18 income interest** is the income interest of the person used to calculate attributed CFC income under section EX 18 (Formula for calculating attributed CFC income or loss) for the accounting period corresponding to the tax year:
 - (b) **tax paid** is the amount of income tax or foreign income tax paid or payable by the CFC in relation to the person's attributed CFC income for the accounting period corresponding to the tax year, including an amount withheld by another person and paid or payable on behalf of the CFC:
 - (c) **excluded foreign tax** is an amount of foreign income tax paid in a country or territory listed in schedule 6 (Countries whose taxes receive limited recognition for certain New Zealand tax purposes) to the extent to

which the foreign income tax is paid on the types of income listed in the schedule.

Defined in this Act: accounting period, amount, attributed CFC income, CFC, corresponding income year, credit of tax, foreign income tax, income interest, income tax, tax year

Compare: 2004 No 35 s LC 4(1), (2)

LK 3 Currency conversion

If foreign income tax is paid or payable by a CFC in a currency other than New Zealand currency, the amount must be converted into New Zealand currency by applying—

- (a) the close of trading spot exchange rate on the date when the income tax is paid or becomes payable; or
- (b) the average of the close of trading spot exchange rates for the 15th day of each complete month that falls in the period to which the attributed CFC income relates.

Defined in this Act: amount, attributed CFC income, CFC, close of trading spot exchange rate, foreign income tax, New Zealand

Compare: 2004 No 35 s LC 4(1)

Use of credits in later tax years

LK 4 Use of remaining credits

When this section applies

- (1) This section applies for the purposes of section LA 5(2) (Treatment of remaining credits of tax) when a person has a credit of tax remaining for a tax year after applying section LA 4(1) (When total credit more than income tax liability).

Requirement to carry amount forward

- (2) The person must carry the amount forward to the next tax year as a credit carried forward.

Defined in this Act: amount, credit of tax, tax year

Compare: 2004 No 35 s LC 4(4)

LK 5 Companies carrying credits forward

Company carrying credit forward

- (1) A company that has a credit of tax carried forward under section LK 4 may carry the amount of the credit forward to a later tax year only if, treating the credit as a net loss to which sections IE 1 and IF 1 (which relate to the treatment of net losses) apply, those sections would allow the amount to be carried forward.

Timing

- (2) For the purposes of this section, the credit is treated as a net loss arising on the last day of the income year corresponding to the tax year for which the person has the credit.

Defined in this Act: amount, company, corresponding income year, credit of tax, net loss, tax year

Compare: 2004 No 35 s LC 4(4), (5)

LK 6 Use of credits by group companies

When this section applies

- (1) This section applies when a company (**company A**) in a group of companies has a credit of tax under section LK 1 in relation to an income interest in a CFC (**company B**) of an amount other than a quarantined amount.

Making credit available

- (2) Company A may choose to make the amount of the credit of tax available to another company (**company C**) that is part of the group of companies for the tax year in which the credit is available to the company if the requirements in subsections (3) and (4) are met.

Amount limited

- (3) The amount of the credit must not be more than the amount that would be company C's income tax liability if that company's only assessable income were the attributed CFC income derived in the corresponding income year from a CFC resident in the same country in which company B was resident in the accounting period in which the income tax giving rise to the credit was paid or payable.

Use limited

- (4) Company A may make an amount of a credit of tax available to company C to use only if the amount would be able to be used under section IG 2 (Net loss offset between group companies) reading the section by omitting section IG 2(4), (5), (10), and by substituting—
- (a) a wholly-owned group of companies for a group of companies:
 - (b) company A for the loss company:

- (c) a credit of company A for a net loss of the loss company:
- (d) the use of the credit to satisfy an income tax liability for the offset of a net loss against net income, in both sections IG 2 and GC 4 (Arrangement to defeat application of net loss offset provisions):
- (e) company C for the profit company:
- (f) the income tax liability of company C for the net income of the profit company:
- (g) sections LK 1 to LK 5 for sections IE 1 and IF 1, except in section IG 2(9).

Defined in this Act: accounting period, amount, assessable income, attributed CFC income, CFC, company, corresponding income year, credit of tax, group of companies, income interest, income tax, income tax liability, net income, net loss, quarantined amount, tax year, wholly-owned group of companies

Compare: 2004 No 35 s LC 5

Treatment of taxable distributions

LK 7 Taxable distributions and NRWT rules

When this section applies

- (1) This section applies when a CFC receives a taxable distribution in an accounting period, and for a person with an income interest of 10% or more in the CFC under the rules in sections EX 14 to EX 17 (which relate to income interest levels), the taxable distribution gives rise to attributed CFC income to which section EX 19 (Taxable distribution from non-qualifying trust) applies.

When credit not allowed

- (2) The person does not have a credit of tax in relation to tax paid on the taxable distribution unless the tax is substantially the same as non-resident withholding tax under the NRWT rules.

Amount of tax on distribution

- (3) The amount of tax that gives rise to the credit must not be more than an amount calculated using the formula—

$$\frac{\text{person's taxable distribution}}{\text{total distribution}} \quad \times \quad \text{foreign tax paid.}$$

Definition of items in formula

- (4) In the formula in subsection (3),—

- (a) **person's taxable distribution** is the amount of the taxable distribution derived by the CFC, including a payment of tax that meets the requirements of subsection (2):
- (b) **total distribution** is the total amount of the distribution derived by the CFC, including a payment of tax that meets the requirements of subsection (2):
- (c) **foreign tax paid** is the payment of tax that meets the requirements of subsection (2).

Amount of person's credit

- (5) The amount of a credit of a person under this section is equal to an amount calculated using the formula—

$$\text{EX 18 income interest} \times \text{amount of tax.}$$

Definition of items in formula

- (6) In the formula in subsection (5),—
 - (a) **EX 18 income interest** is the income interest of the person used to calculate attributed CFC income under section EX 18 (Formula for calculating attributed CFC income or loss) for the accounting period corresponding to the tax year:
 - (b) **amount of tax** is the amount of tax determined under subsection (3).

Defined in this Act: accounting period, amount, attributed CFC income, CFC, corresponding income year, credit of tax, distribution, income interest, NRWT rules, tax year, taxable distribution

Compare: 2004 No 35 s LC 4(7)

Consolidated companies

LK 8 Credits of tax of consolidated companies

If a consolidated group has a credit of tax under section LK 1, the credit is treated as the consolidated group's credit, and not the credit of a company in the group.

Defined in this Act: company, consolidated group, credit of tax

Compare: 2004 No 35 s LC 16(1)

LK 9 Use of company's credits carried forward

When this section applies

- (1) This section applies when a company that is part of a consolidated group of companies in an income year has a credit carried forward for the tax year corresponding to the income year.

First use by consolidated group

- (2) The amount must first be used to satisfy the income tax liability of the consolidated group for the income year. However, the amount must not be more than the consolidated group's quarantined amount.

Second use by group company or another consolidated group

- (3) If, after applying subsection (2), an amount remains, the amount may be used to satisfy the income tax liability of the company, or the income tax liability of another consolidated group in the income year. Sections LK 10 and LK 11 override this subsection.

Third use: carrying amount forward

- (4) If, after applying subsections (2) and (3), an amount remains, the company must carry the amount forward to the next income year under section LK 4(2).

Defined in this Act: amount, company, consolidated group, corresponding income year, income tax liability, income year, quarantined amount, tax year

Compare: 2004 No 35 s LC 16(2)

LK 10 When group membership lacking in tax year in which credit arises

When this section applies

- (1) This section applies when a company that is part of a consolidated group of companies has a credit carried forward for a tax year, but the company was not part of the same group as 1 or more companies in the group in an earlier tax year in which the credit arises.

Limitation on amount used

- (2) The amount of the credit carried forward and made available for the consolidated group to use under section LK 9(2) is limited to the sum of—
 - (a) the amount of the credit carried forward that the company could use under section LA 2 or LA 4 (which relate to the company's income tax liability), if the company were not part of the consolidated group for the tax year; and
 - (b) the amount that each company in the consolidated group would have under section LK 6 in relation to the amount of credit carried forward if—
 - (i) the consolidation of the companies is ignored; and
 - (ii) all required steps are presumed taken for section LK 6 to apply.

Relationship with section HB 2

- (3) In subsection (2), section HB 2(1) (Taxable income to be calculated generally as if group were single company) applies to the calculation of the income tax liability.

Defined in this Act: amount, company, consolidated group, income tax liability, tax year

Compare: 2004 No 35 s LC 16(4)

LK 11 When group membership lacking in tax year in which credit used

When this section applies

- (1) This section applies when a company that is part of a consolidated group of companies has a credit carried forward for a tax year, but the company is not part of the group for the whole tax year in which the credit carried forward is used.

Limitation on amount

- (2) The amount of the credit carried forward and made available for the consolidated group to use under section LK 9(2) is limited to the least of—
- (a) the amount of the credit carried forward shown in a financial statement provided with the consolidated group's return of income for the income year corresponding to the tax year that—
 - (i) relate to the part of the income year when the company was a member of the group; and
 - (ii) disclose the amount that would be the net income attributable to the part of the income year when the company is a member of the group, determined on a fair and reasonable basis of attribution:
 - (b) the amount of the credit calculated under subsection (3):
 - (c) the amount referred to in section LK 10(2).

Calculation of amount for subsection (2)(b)

- (3) In subsection (2)(b), the amount is calculated using the formula—
amount carried forward - (part-year credits + pre-consolidation credits).

Definition of items in formula

- (4) In the formula,—
- (a) **amount carried forward** is the amount of the credit carried forward under section LK 9(2), before applying section LK 10 and this section:
 - (b) **part-year credits** is the amount of the credit carried forward that the company may use under section LA 2 or LA 4 (which relate to the company's income tax liability) for the part of the tax year before the company becomes a member of the consolidated group:
 - (c) **pre-consolidation credits** is the amount of the credits carried forward that the company must make available for another consolidated group of which it was a member before becoming a member of the consolidated group.

Defined in this Act: amount, company, consolidated group, corresponding income year, income year, net income, return of income, tax year

Compare: 2004 No 35 s LC 16(5)

Amalgamations of companies

LK 12 Treatment of credits when companies amalgamate

On an amalgamation, for the purposes of determining whether a credit carried forward is available under section LK 5 or whether the requirements of section LK 6 are met, the amalgamated company is treated as if it were the amalgamating company with the same holders of shares and options over shares.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, share

Compare: 2004 No 35 ss LC 8, LC 11, LC 12

LK 13 Use of credits by amalgamated company

When this section applies

- (1) This section applies when an amalgamating company ends its existence on a qualifying amalgamation, and the company has a credit of tax under this subpart that—
- (a) has not otherwise been used by the amalgamating company before the date of amalgamation:
 - (b) if treated as a credit remaining for a tax year under section LA 4(1) (When total credit more than income tax liability), could be made available to the

amalgamated company (unless it is a company incorporated only on amalgamation) and each company that is amalgamated with the amalgamated company.

Amalgamated company's credit

- (2) The credit of tax is treated as a credit of the amalgamated company for the tax year in which the amalgamation occurs.

Defined in this Act: amalgamated company, amalgamating company, company, credit of tax, qualifying amalgamation, tax year

Compare: 2004 No 35 s LC 8

LK 14 Use by amalgamated company of credits carried forward

When this section applies

- (1) This section applies when an amalgamated company has a credit of tax under this subpart for a tax year before that in which the amalgamation takes place, and the credit has not been used before the date of amalgamation.

Restrictions on carrying credit forward

- (2) The amalgamated company may carry forward the credit to the tax year of amalgamation or a later tax year only if—
- (a) the requirements of sections LK 1 to LK 5 are met; and
 - (b) the credit could be made available under section LK 6 for the part of the tax year ending with the date of the amalgamation to each amalgamating company.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, credit of tax, tax year

Compare: 2004 No 35 s LC 10

LK 15 Use of amalgamating company's credits

When this section applies

- (1) This section applies when a company has a credit of tax under this subpart arising in whole or in part before an amalgamation.

Restrictions on use

- (2) The amalgamated company may use the credit only if the company and each amalgamating company meet the requirements of section LK 6.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, company, credit of tax

Compare: 2004 No 35 s LC 12

Subpart LL— Underlying foreign credits

Contents

- LL 1 What this subpart does
- LL 2 Credits of tax for underlying foreign tax
- LL 3 Meaning of grey list dividend
- LL 4 Tracking accounts
- LL 5 Meaning of foreign dividend company net earnings
- LL 6 Foreign dividend company lower tier UFCs
- LL 7 Conduit financing arrangements
- LL 8 Currency conversion
- LL 9 Some definitions

LL 1 What this subpart does

This subpart provides for a credit of tax for a person for an amount of underlying foreign tax. The person uses the credit to reduce their dividend withholding payment obligation for a foreign withholding payment dividend (**FWP dividend**) under section NH 2 (Amount of dividend withholding payment to be deducted).

Defined in this Act: amount, credit of tax, dividend withholding payment, FWP dividend

Compare: 2004 No 35 s LF 1(1)(a)

LL 2 Credits of tax for underlying foreign tax

When this section applies

- (1) This section applies when—
 - (a) a person is a company resident in New Zealand; and
 - (b) the person derives an FWP dividend from a foreign dividend company that is—
 - (i) a branch equivalent company; or
 - (ii) a grey list company; or

- (iii) a CFC; or
- (iv) a company that is a New Zealand resident and treated as a New Zealand resident under a double tax agreement; and
- (c) the person has the required interest in the foreign dividend company when they derive the FWP dividend; and
- (d) the person meets the requirements of section 78F of the Tax Administration Act 1994.

Exclusions

- (2) This section does not apply when—
 - (a) the person is a qualifying company:
 - (b) the FWP dividend is a non-creditable dividend.

Grey list dividends

- (3) For an accounting year and for a grey list dividend, the person has a credit of tax equal to an amount calculated using the formula—

$$\frac{\text{grey list dividend} \times \text{company rate}}{(1 - \text{company rate})}$$

Definition of items in formula

- (4) In the formula in subsection (3),—
 - (a) **grey list dividend** is the amount of the FWP dividend of the person to the extent to which it is a grey list dividend under section LL 3:
 - (b) **company rate** is the applicable basic tax rate set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax), for the tax year in which the FWP dividend is derived, expressed as a decimal.

Non-grey list dividends

- (5) For an accounting year and for a dividend other than a grey list dividend, the person has a credit of tax equal to an amount calculated using the formula—

$$\frac{\text{non-grey list dividend}}{\text{foreign dividend company net earnings}} \times (\text{total tax paid} + \text{total UFCs}).$$

Definition of items in formula

- (6) In the formula in subsection (5),—
 - (a) **non-grey list dividend** is the amount of the FWP dividend of the person for the accounting year before the deduction of withholding tax to the extent to which the amount is not a grey list dividend under section LL 3:
 - (b) **foreign dividend company net earnings** is the amount of the person's foreign dividend company net earnings under section LL 5:
 - (c) **total tax paid** is the total income tax or foreign income tax paid or payable by the foreign dividend company for its UFC accounting period:

- (d) **total UFCs** is the total amount of foreign dividend company lower tier UFCs under section LL 6 less the sum of—
- (i) the total amount of credits that the person would have under this subpart in relation to all dividends paid by the foreign dividend company during its UFC accounting period, excluding dividends paid during the current accounting year, and treating the dividends as derived by the person at a time when they have the required interest in the foreign dividend company; and
 - (ii) the total amount of credits that the person would have under subsection (3) if all dividends paid by the foreign dividend company in its current accounting year are treated as derived by the person at a time when they have the required interest in the foreign dividend company.

Misreported foreign dividend company net earnings

- (7) When a person calculates the amount of their credit under subsection (5) using an amount of foreign dividend company net earnings calculated under section LL 5(2), the person is not entitled to credits for the relevant accounting year and the accounting years immediately before and after the accounting year, if—
- (a) the person or the Commissioner decides, for the accounting year, that the amount of foreign dividend company net earnings is based on financial statements that do not fairly present the net earnings of the foreign dividend company; or
 - (b) the amount of foreign dividend company net earnings is not supported by the documentation.

Information requirements

- (8) The Commissioner may require the person to provide information under section 78E of the Tax Administration Act 1994 for the purposes of this section.

Defined in this Act: accounting year, amount, applicable basic tax rate, branch equivalent company, CFC, Commissioner, company, credit of tax, current accounting year, dividend, double tax agreement, UFC accounting period, foreign dividend company, foreign dividend company net earnings, FWP dividend, grey list company, grey list dividend, income tax, New Zealand resident, non-creditable dividend, qualifying company, required interest, resident in New Zealand, tax year, UFC accounting period

Compare: 2004 No 35 ss LF 1(1)(a), (2), LF 2(2), (3), LF 3(1), LF 6(4), (6), OB 1

LL 3 Meaning of grey list dividend

Calculation

- (1) **Grey list dividend**, for an accounting year, means an amount calculated using the formula—

$$\text{person's FWP dividend} \quad \times \quad (1 - \text{tracking account balance})$$

total grey list dividends.

Definition of items in formula

- (2) In the formula,—
- (a) **person's FWP dividend** is an amount of FWP dividend derived by a person for an accounting year in relation to which the foreign dividend company—
 - (i) is liable for the UFC accounting period to income tax in a foreign country in the grey list because of its domicile, residence, place of incorporation, or place of management in the foreign country; and
 - (ii) maintains a tracking account under section LL 4 that the person can provide to the Commissioner, if asked; and
 - (iii) has not, for the UFC accounting period, had its liability to income tax reduced by applying the concessions listed in schedule 3, part B (International tax rules: grey list countries), excluding the concessions listed in clause 1 to the extent to which the company has derived income from another foreign country in the grey list; and
 - (iv) either is a member of the same wholly-owned group of companies as the foreign dividend company when the FWP dividend is paid, or has been a foreign company for the whole of the period ending on the day that the FWP dividend is paid, and beginning on the starting date:
 - (b) **tracking account balance** is the balance of the tracking account maintained for the foreign dividend company under section LL 4 on the last day of the accounting year:
 - (c) **total grey list dividends** is the total dividends that the foreign dividend company pays during the current accounting year that are FWP dividends, or would be FWP dividends if they were derived by the person.

Starting date

- (3) In this section, **starting date** means—
- (a) the first day of the foreign dividend company's accounting year that is 3 years before the accounting year in which the person first has the required interest in the foreign dividend company; or
 - (b) the date on which the foreign dividend company is incorporated, if the person has the required interest in the foreign dividend company on that date or within 3 years of that date.

Defined in this Act: accounting year, amount, company, Commissioner, current accounting year, dividend, dividend withholding payment, effective date, foreign company, foreign dividend company, FWP dividend, grey list, grey list dividend, income tax, required interest,

starting date, tracking account, trust, UFC accounting period, wholly-owned group of companies

Compare: 2004 No 35 s LF 5(1)

LL 4 Tracking accounts

When tracking accounts required

- (1) A person who derives a grey list dividend must maintain a tracking account for the foreign dividend company that pays the grey list dividend for all transactions occurring on and after the first tracking date of the foreign dividend company. The person may maintain a tracking account for another company for all transactions occurring on and after the first tracking date of the other company.

Credits to tracking account

- (2) The person must credit the following amounts to a tracking account:
- (a) an amount of a standard dividend in relation to which the company is not liable for income tax or foreign income tax:
 - (b) an amount of a dividend paid by a tracking associate in relation to which the company is not liable for income tax, excluding—
 - (i) an amount of attributed repatriation:
 - (ii) an amount of a standard dividend:
 - (iii) an amount of a dividend arising from a loan calculated under section CD 28 (Calculation of amount of dividend when property made available) using the benchmark rate under section CD 28(5) to (8), to the extent to which the amount of the loan is otherwise credited under paragraph (d) to the tracking account:
 - (c) an amount subscribed for shares issued by the company or contributed as additional equity of the company to the extent to which the amounts are subscribed or contributed by a tracking associate who has retained earnings at the time of subscription or contribution:
 - (d) an amount advanced by a tracking associate as a loan to the company to the extent to which the tracking associate has retained earnings at the time the amounts are advanced, excluding amounts repaid within 5 years:
 - (e) an amount that is not a dividend paid by a tracking associate for which the company is not liable for income tax and, if the company were a New Zealand resident, the amount would be assessable income of the company:
 - (f) an amount of the retained earnings of the company for an accounting year before the first tracking date of the company, if the person has chosen a first tracking date under paragraph (c) in the definition of **first tracking date**.

Debits to tracking account

- (3) The person must debit the following amounts to a tracking account:

- (a) an amount credited under subsections (2)(a) to (e) that is—
 - (i) a dividend derived by the company that would be a grey list dividend under section LL 3 if derived by the person; or
 - (ii) a dividend paid by another company resident in New Zealand:
- (b) an amount paid by the company on or after the first tracking date of the company and before the end of the current accounting year if it is—
 - (i) derived by another company; and
 - (ii) credited under subsections (2)(a) to (e) in a tracking account maintained for the other company and the first tracking date of the other company is earlier than the first tracking date of the company:
- (c) an amount of a dividend, other than a dividend debited under paragraph (a) or (b), paid by the company in the UFC accounting period, excluding the current accounting year, if the dividend is a grey list dividend under section LL 3, or would be a grey list dividend if derived by the person.

Income tax liability

- (4) If a credit, deduction, or similar benefit arising under the relevant foreign taxation laws has the direct or indirect effect of reducing the company's income tax or foreign income tax, a company is treated as not liable to income tax or foreign income tax in relation to those amounts for the purposes of subsection (2).

Exclusions

- (5) Subsection (4) does not apply if the credit, deduction, or benefit relates merely to the use under the relevant taxation laws of the equivalent of—
 - (a) a net loss:
 - (b) a credit of tax arising under subparts LJ, LK, or this subpart (which relate to credits of tax for foreign tax).

When company is life insurance company

- (6) If a company carries on a business of providing life insurance, the amounts that must be credited to a tracking account under subsection 2(a) to (e) are calculated using an actuarial determination of the part of the profit or loss of the company for the shareholders, not the policyholders, unless—
 - (a) the Commissioner considers the amounts calculated using an actuarial determination are not reasonable and fair; or
 - (b) the Commissioner has asked for information to review the actuarial determination and the person fails to provide the information.

Defined in this Act: accounting year, amount, assessable income, attributed repatriation, business, CFC, Commissioner, company, credit of tax, current accounting year, deduction, dividend, first tracking date, foreign dividend company, grey list dividend, income tax, loss,

net loss, New Zealand resident, resident in New Zealand, retained earnings, share, shareholder, standard dividend, tracking account, tracking associate, UFC accounting period

Compare: 2004 No 35 s LF 5(2)–(5)

LL 5 Meaning of foreign dividend company net earnings

Definition

- (1) **Foreign dividend company net earnings**, for a person and an accounting year, means the greater of—
- (a) an amount calculated using the formula in subsection (2); and
 - (b) the total amount of dividends that the foreign dividend company pays during the current accounting year, excluding—
 - (i) a dividend derived by the person that is a non-creditable dividend or a grey list dividend; and
 - (ii) a dividend that would be a non-creditable dividend or would be a grey list dividend, if derived by the person.

Calculation of amount

- (2) The formula referred to in subsection (1)(a) is—
- $$\text{after-tax earnings} - \text{after-tax losses} - \text{excluded dividends}.$$

Definition of items in formula

- (3) In the formula,—
- (a) **after-tax earnings** means the total after-income tax earnings of the foreign dividend company for the company's UFC accounting period:
 - (b) **after-tax losses** means the total after-income tax losses of the foreign dividend company for the company's UFC accounting period:
 - (c) **excluded dividends** means the total amount of dividends paid by the foreign dividend company limited to—
 - (i) the dividends paid during its UFC accounting period, excluding the current accounting year:
 - (ii) the dividends derived by the person, paid during the current accounting year as non-creditable dividends or grey list dividends:
 - (iii) the dividends paid during the current accounting year that would be non-creditable dividends or grey list dividends if derived by the person.

Defined in this Act: accounting year, after-income tax earnings, after-income tax losses, amount, company, current accounting year, dividend, foreign dividend company, foreign dividend company net earnings, grey list dividend, non-creditable dividend, UFC accounting period

Compare: 2004 No 35 s LF 3(1)(f), (g), (h)

LL 6 Foreign dividend company lower tier UFCs

When UFC arises

- (1) A person has a foreign dividend company lower tier UFC if—
- (a) a company pays a standard dividend to a foreign dividend company during the foreign dividend company's UFC accounting period; and
 - (b) the person has the required interest in the company and in the foreign dividend company when the company pays the standard dividend.

Amount of UFC

- (2) The amount of the foreign dividend company lower tier UFC is equal to the credit that the person would have under this subpart for the standard dividend, treating—
- (a) a dividend other than a standard dividend as not existing; and
 - (b) a standard dividend as an FWP dividend received by the person.

Limitation on amount

- (3) The amount under subsection (2) is limited to the lesser of—
- (a) the imputation credits attached to the standard dividend if the company is resident in New Zealand and is an imputation credit account company; and
 - (b) an amount calculated using the formula—

$$(\text{relevant standard dividend} + \text{lower tier UFC} + \text{withholding tax}) \times (\text{company rate} - \text{withholding tax})$$

Definition of items in formula

- (4) In the formula,—
- (a) **relevant standard dividend** is the amount of the standard dividend after the subtraction of withholding tax;
 - (b) **lower tier UFC** is the amount of the foreign dividend company lower tier UFC under subsection (2) for the standard dividend;
 - (c) **withholding tax** means the withholding tax paid in relation to the standard dividend;
 - (d) **company rate** is the applicable basic tax rate set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax), for the tax year in which the standard dividend is paid, expressed as a decimal.

Defined in this Act: amount, applicable basic tax rate, company, dividend, foreign dividend company, FWP dividend, imputation credit, imputation credit account company, required interest, resident in New Zealand, standard dividend, tax year, UFC accounting period

Compare: 2004 No 35 s LF 4

LL 7 Conduit financing arrangements

When this section applies

- (1) This section applies when—
- (a) a company derives a dividend from a foreign company (**foreign company A**), or a person resident in New Zealand and associated at the time with the company derives a dividend from a foreign company; and
 - (b) the company or associate has a credit of tax for the dividend under section LL 2(3) or (5) as a foreign dividend company lower tier UFC under section LL 6; and
 - (c) in the tax year in which the dividend is derived, or in an earlier tax year, the company incurs—
 - (i) interest expenditure; or
 - (ii) expenditure under the financial arrangements rules; and
 - (d) an amount paid or payable by the company which gives rise to the expenditure referred to in paragraph (c) is paid directly or indirectly, through 1 or more transactions, to foreign company A, or to another foreign company (**foreign company B**) that is associated with foreign company A; and
 - (e) at the time when an amount described in paragraph (d) is paid to foreign company A or to foreign company B, or at the time when the dividend described in paragraph (a) is derived,—
 - (i) foreign company A is not a CFC;
 - (ii) foreign company B is not a CFC, if a payment is made to foreign company B;
 - (iii) a non-resident has voting interests of 50% or more in foreign company A and in foreign company B, if applicable or, if a market value circumstance exists, market value interests of 50% or more in foreign company A and in foreign company B, if applicable.

Limited deduction

- (2) For the purposes of subsection (1)(c), and despite section BD 2 (Deductions), the company is allowed a deduction for the expenditure for a tax year only to the extent to which the expenditure is greater than an amount calculated using the formula—

grey list UFC dividends - (earlier expenditure + financial arrangements income).

Definition of items in formula

- (3) In the formula,—
- (a) **grey list UFC dividends** is the total amount of dividends, before subtracting withholding tax, derived from foreign company A for the tax year or an earlier tax year, to the extent to which the dividends give rise to an amount of credit under section LL 2(3) for the company or the associated person:
 - (b) **earlier expenditure** is expenditure for a tax year earlier than that in which a deduction is not allowed under subsection (2), because the company or the associated person has a credit under section LL 2(3):
 - (c) **financial arrangements income** is the income that the company derives under a financial arrangement that foreign company A or foreign company B, as applicable, is party to, if the company incurs expenditure under the financial arrangement in an earlier tax year.

Defined in this Act: amount, associated person, company, credit of tax, deduction, dividend, financial arrangement, financial arrangements rules, foreign company, foreign dividend company, interest, market value circumstance, market value interest, non-resident, resident in New Zealand, tax year, voting interest

Compare: 2004 No 35 s LF 7

LL 8 Currency conversion

Calculations performed in accounting currency

- (1) If a financial statement of a foreign dividend company uses a currency that is not New Zealand currency, the calculations for a credit, including the tracking account required under section LL 4, are undertaken in the currency used in the financial statement.

Conversion of other currencies to currency of financial statement

- (2) If a foreign dividend company receives an amount that is not in New Zealand currency and not in the currency used in its financial statement, the amount is converted to the currency of the financial statement on the day on which the foreign dividend company pays an FWP dividend to a person. For this purpose, the definition of **close of trading spot exchange rate** in section OB 1 (Definitions) is applied as if a reference to New Zealand currency is a reference to the currency of the financial statement.

Conversion to NZ currency

- (3) An amount provided in a currency used in a foreign dividend company's financial statement is converted to New Zealand currency on the day on which the company pays an FWP dividend to a person, applying the close of trading spot exchange rate.

Defined in this Act: amount, close of trading spot exchange rate, dividend, foreign dividend company, FWP dividend, New Zealand, tracking account

Compare: 2004 No 35 ss LF 3(2), LF 5(2)(e)

LL 9 Some definitions

In this subpart,—

first tracking date, for a company, means the later of—

- (a) 20 October 1992;
- (b) the first day of the relevant UFC accounting period;
- (c) a day chosen by the person who maintains the tracking account, if the day is the first day of an accounting year in the UFC accounting period

fixed rate share means a share for which a payment of a dividend is—

- (a) at a rate that is a specific fixed percentage of the amount subscribed for the issue of the shares; or
- (b) at a rate that is a percentage of the amount subscribed for the issue of the shares, and the percentage is determined by a fixed relationship to economic, commodity, industrial, or financial indexes, or to banking rates or general commercial rates of interest; or
- (c) at a rate that would be a percentage under paragraph (a) or (b) but for variations in the rate due to either or both of,—
 - (i) a fixed relationship to a rate of income tax;
 - (ii) compensation to shareholders for default by the paying company, or expenditure or loss suffered by the shareholder (or a person associated with the shareholder) related to the holding of the shares; or
- (d) the equivalent of the payment of interest for money lent, having regard to—
 - (i) whether or not the share is redeemable;
 - (ii) any security provided to the shareholder, including put or call options over the shares or any amount payable determined by reference to the amount of dividends payable;
 - (iii) the variability or lack of variability of the dividends payable

foreign dividend company means a company that pays a FWP dividend

non-creditable dividend means a FWP dividend—

- (a) for which a deduction is allowed in the calculation of the foreign dividend company's income tax liability;
- (b) sourced directly or indirectly out of an amount paid to the foreign dividend company from another company if—

- (i) the foreign dividend company was not liable for income tax on the amount paid; and
 - (ii) the other company is allowed a deduction in the calculation of its income tax liability for paying the amount paid to the dividend company:
- (c) paid in relation to fixed rate shares:
 - (d) that is an attributed repatriation and the shares taken into account in calculating the income interest which gives rise to the attributed repatriation are fixed rate shares

required interest, for a person, means—

- (a) in relation to a CFC, when the person has an income interest of 10% or more in the company under the rules in sections EX 14 to EX 17 (which relate to the 10% threshold and variations in income interest level):
- (b) otherwise, when a person has a voting interest of 10% or more in the company, and—
 - (i) the voting interest is determined as if paragraphs (a) to (c) of the definition of **shareholder decision-making rights** in section OB 1 (Definitions) do not apply, and the voting interest that the person has, or is treated as having, is not treated as held by any other person under section OD 3(3)(d) (Voting interests); and
 - (ii) if a market value circumstance exists, the person also has a market value interest of 10% or more in the company, where the market value interest is determined as if the market value interest the person has, or is treated as having, is not treated as held by any other person under section OD 4(3)(d) (Market value interests)

retained earnings means the shareholders' funds of a company at the end of the accounting year before the first tracking date, calculated under generally accepted accounting practice, but reduced by—

- (a) the company's paid up share capital, excluding an amount resulting from—
 - (i) a bonus issue made by the company; or
 - (ii) a direct or indirect re-investment of a distribution made by the company:
- (b) the company's share premium account, excluding an amount resulting from—
 - (i) a bonus issue made by the company; or
 - (ii) a direct or indirect re-investment of a distribution made by the company:
- (c) an amount previously subscribed for shares issued by another company, if the amount has been credited to the tracking account of the other company under section LL 4(2)(c):

- (d) an outstanding principal amount for a loan to another company, when the outstanding principal amount is credited to the tracking account of the other company under section LL 4(2)(d):
- (e) total amounts excluded from paragraphs (a) and (b) by the relevant subparagraphs, to the extent to which those amounts:
 - (i) have been credited to the tracking account of another company under section LL 4(2); or
 - (ii) are FWP dividends; or
 - (iii) are derived by a shareholder of the company subject to income tax:
- (f) an amount previously paid to another company, if the amount—
 - (i) has not been included in paragraphs (a) to (e); and
 - (ii) is credited to the tracking account of the other company under section LL 4

tracking account means a tracking account that a person maintains under section LL 4 for a company

tracking associate means a company associated with both the company for which a tracking account is maintained and the person maintaining the tracking account, and the associated company is either resident in New Zealand or a CFC.

Defined in this Act: accounting year, amount, associated person, attributed repatriation, bonus issue, company, deduction, distribution, first tracking date, fixed rate share, foreign dividend company, FWP dividend, generally accepted accounting practice, income interest, income tax, income tax liability, interest, loss, market value circumstance, market value interest, money lent, non-creditable dividend, pay, required interest, resident in New Zealand, retained earnings, share, shareholder, tracking account, tracking associate, UFC accounting period, voting interest

Compare: 2004 No 35 ss LF 1(2), LF 2(2), (3), LF 5(1)(e), (5)

Subpart LO - Credits of tax for Maori authority credits

Contents

- LO 1 Credits of tax for Maori authority credits
- LO 2 Beneficiaries of trusts
- LO 3 Application of Maori authority distribution ratio
- LO 4 Failure to pay tax
- LO 5 Evidential requirements

LO 1 Credits of tax for Maori authority credits

Amount of credit

- (1) A person who derives a taxable Maori authority distribution in a tax year has a credit of tax for the tax year equal to the amount of the Maori authority credit attached to the distribution.

Amount altered

- (2) The amount of the person's credit in subsection (1) may be reduced or increased if any of sections LO 2 to LO 4 apply.

Arrangements for tax advantage

- (3) A person's credit under this section is extinguished if section GC 27A (Arrangement to obtain tax advantage with respect to Maori authority credit account provisions (subpart MK)) applies.

Defined in this Act: amount, credit of tax, Maori authority credit, tax year, taxable Maori authority distribution

Compare: 2004 No 35 ss LB 1(1)(m), LD 3A(1)

LO 2 Beneficiaries of trusts

When this section applies

- (1) This section applies when a person who has a credit of tax under section LO 1 is a beneficiary of a trust, and in that capacity, derives a taxable Maori authority distribution.

Limitation on amount of credit

- (2) The person's credit is limited to an amount calculated using the formula—
- $$\frac{\text{person's distributions}}{\text{trust distributions}} \times \text{total beneficiary credits} - \text{person's supplementary dividend.}$$

Definition of items in formula

- (3) In the formula,—
- (a) **person's distributions** is the total taxable Maori authority distributions for the tax year made to the person in their capacity as beneficiary of the trust:
 - (b) **trust distributions** is the total distributions for the tax year made to all beneficiaries of the trust in their capacity as beneficiaries, and includes all supplementary dividends paid to them:
 - (c) **total beneficiary credits** is the total Maori authority credits attached to taxable Maori authority distributions for the tax year made to all beneficiaries of the trust in their capacity as beneficiaries:
 - (d) **person's supplementary dividend** is the total supplementary dividends for the tax year paid to the person in their capacity as beneficiary of the trust.

Defined in this Act: credit of tax, distribution, Maori authority credit, supplementary dividend, tax year, taxable Maori authority distribution

Compare: 2004 No 35 s LB 1(3), (3A)

LO 3 Application of Maori authority distribution ratio

When this section applies

- (1) This section applies when a person who has a credit of tax under section LO 1 derives a taxable Maori authority distribution that has a base ratio greater than the ratio calculated under section MK 7 (Allocation rules for Maori authority credit account credits).

Amount of reduction

- (2) The person's credit is reduced by an amount equal to the amount by which the credit is greater than the ratio.

Defined in this Act: amount, base ratio, credit of tax, taxable Maori authority distribution

Compare: 2004 No 35 s LB 1(1)(ea)

LO 4 Failure to pay tax

When this section applies

- (1) This section applies when—
- (a) a person has a credit of tax under section LO 1 and a Maori authority credit is attached to a dividend; and
 - (b) the dividend is paid by a Maori authority that has debit balance in their Maori authority credit account at the end of the tax year; and
 - (c) the authority has not paid further income tax by the due date referred to in section MK 8(2) (Further tax payable for end of year debit balance or when Maori authority ceases to exist).

Amount of reduction

- (2) The Commissioner may reduce the person's credit by an amount equal to their proportion of the unpaid amount under subsection (1)(c).

When failure to pay remedied

- (3) To the extent to which a Maori authority remedies the failure after the due date, this section does not apply.

Defined in this Act: amount, Commissioner, credit of tax, further income tax, Maori authority, Maori authority credit, Maori authority credit account, tax year

Compare: 2004 No 35 s LD 3A(6)

LO 5 Evidential requirements

If a person who has a credit of tax under section LO 1 does not satisfy the evidential requirements in section 78D of the Tax Administration Act 1994, the person's credit may be reduced.

Defined in this Act: credit of tax

Compare: 2004 No 35 s LD 3A(5)

Subpart LP - Credits of tax for supplementary dividends

Contents

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- LP 7 Requirements for supplementary dividend holding companies
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Introductory provision

LP 1 What this subpart does

Supplementary dividends

- (1) This subpart provides the rules for the treatment of a credit of tax for a supplementary dividend. The amount of the credit is determined by reference to an imputation credit attached to a dividend paid by a company to a non-resident. For a credit to arise under this subpart, the company must pay a supplementary dividend, and the amount of the credit is equal to the amount of the supplementary dividend.

Supplementary dividend holding companies

- (2) Some special rules exist for a supplementary dividend holding company that allow a supplementary dividend and a credit of tax for a supplementary dividend to pass through a chain of companies.

Defined in this Act: amount, company, credit of tax, imputation credit, non-resident, supplementary dividend, supplementary dividend holding company

Compare: 2004 No 35 s LE 1

Use of credits

LP 2 Credits of tax for supplementary dividends

When this section applies

- (1) This section applies when a company resident in New Zealand pays a dividend and a related supplementary dividend to—
- (a) a non-resident; or
 - (b) a supplementary dividend holding company that is not in the same consolidated group of companies as the company.

Amount of credit

- (2) For the year of payment, the company has a credit of tax equal to an amount calculated using the formula—

$$\text{attached imputation credit} \quad \times \quad \frac{67}{187}.$$

Definition of item in formula

- (3) In the formula, **attached imputation credit** is the imputation credit that would, in the absence of this subpart, be attached to the dividend.

Limitation on use of credit

- (4) A company that is a supplementary dividend company may choose under section LA 2 or LA 4 (which relate to the satisfaction of a person's income tax liability) to limit the amount of a credit of tax for a tax year. The reduced amount must not be less than the amount of supplementary dividends that the company derives for the income year corresponding to the tax year.

Meaning of year of payment

- (5) In this subpart, **year of payment** means—
- (a) unless paragraph (b) applies, the tax year corresponding to the income year in which the company pays the dividend;
 - (b) if the company and the supplementary dividend holding company are associated and, because their balance dates do not match, the supplementary dividend holding company derives the dividend in an income year that is later than the income year of the company in which it

pays the dividend, the tax year corresponding to the income year in which the supplementary dividend holding company derives the dividend.

Associated persons test

- (6) For the purposes of the definition of **year of payment** in subsection (5), the test of association for the company and the supplementary dividend holding company is set out in section OD 8(3) (Further definitions of associated persons) and a reference there to “50% or more” is treated as a reference to “more than 50%”.

Defined in this Act: amount, associated person, company, consolidated group, corresponding income year, credit of tax, imputation credit, non-resident, pay, resident in New Zealand, supplementary dividend, supplementary dividend holding company, tax year, year of payment

Compare: 2004 No 35 ss LE 2(1), (2), (2A), LE 3(5)

LP 3 Use of remaining credits

When this section applies

- (1) This section applies when a company has a credit of tax remaining for a tax year under section LA 5(3) (Treatment of remaining credits).

Grouping amount

- (2) The company may make the amount available to another company (**company B**) that is in the same wholly-owned group of companies as the company for the corresponding income year in which the remaining credit arises.

Carrying back and using or grouping amount

- (3) If the amount of the remaining credit has never been carried forward from an earlier tax year, the company may either—
- (a) use the amount for any 1 of the 4 tax years that are immediately before the tax year in which the remaining credit arises; or
 - (b) make the amount available to company B, if both companies are in the same wholly-owned group of companies for the relevant tax year in the 4-year period.

Carrying amount forward

- (4) If, after applying subsections (2) and (3) as applicable, the company has an amount of credit of tax remaining for the tax year, the company must carry the amount forward to the next tax year as a credit carried forward under section LP 2.

Notifying Commissioner

- (5) The company makes a choice under subsection (3) by notifying the Commissioner in their return of income for the income year that corresponds to the tax year.

When companies in same group

- (6) For the purposes of subsections (2) and (3), the company and company B must be in the same wholly-owned group of companies for the whole of the relevant income year or, if 1 of the companies exists for only part of the year, for the whole of the period of the income year when both companies are in existence.

Defined in this Act: amount, Commissioner, company, corresponding income year, credit of tax, income year, notify, return of income, tax year, wholly-owned group of companies

Compare: 2004 No 35 s LE 2(4), (6), (7)

LP 4 Continuity rules for carrying credits forward

When this section applies

- (1) This section applies for the purposes of section LA 5(3) (Treatment of remaining credits) when a company has an amount of a credit of tax that must be carried forward under section LP 3(4).

Minimum interests required

- (2) The amount is available for use under section LP 3(4) if a group of persons exists that has, for the continuity period,—
- (a) minimum voting interests in the company that add up to 49% or more; or
 - (b) minimum market value interests in the company that add up to 49% or more.

Some definitions

- (3) In this section,—

continuity period means the period that starts on the first day of the income year that corresponds to the tax year in which the credit of tax first arises and ends on the last day of the income year that corresponds to the tax year to which the amount of the credit has been carried forward

minimum market value interest means the lowest market value interest that a person has in the company for the continuity period

minimum voting interest means the lowest voting interest that a person has in the company for the continuity period.

Defined in this Act: amount, company, continuity period, credit of tax, income year, market value interest, minimum market value interest, minimum voting interest, tax year, voting interest

Compare: 2004 No 35 s LE 2(5)

LP 5 Application of benchmark dividend rules and imputation credit ratio

Applying benchmark dividend rules

- (1) The benchmark dividend rules in sections ME 8 and MG 8 (which relate to the allocation of imputation and dividend withholding payment credits) and section GC 22 (Imputation: arrangement to obtain tax advantage) apply as if the company had never paid the supplementary dividend.

Increase in imputation credit

- (2) The maximum imputation credit ratio and the benchmark dividend rules in sections ME 8 and GC 22 apply to a dividend as if the imputation credit attached to the dividend were increased by an amount equal to the related supplementary dividend.

Defined in this Act: amount, benchmark dividend, company, imputation credit, supplementary dividend

Compare: 2004 No 35 s LE 2(9), (10)

LP 6 Potential breach of company rules

Class of shares

- (1) The payment of a supplementary dividend on only some shares in a class of shares does not constitute a breach of—
 - (a) section 53 of the Companies Act 1993; or
 - (b) the company's constitution or its articles of association; or
 - (c) any other provision.

Trusts

- (2) If a trustee derives a supplementary dividend and is required under the terms of a trust to distribute it as beneficiary income to a beneficiary, the distribution does not breach the terms of the trust.

Defined in this Act: beneficiary income, company, distribution, pay, share, supplementary dividend, trustee

Compare: 2004 No 35 s LE 2(11), (12)

Supplementary dividend holding companies

LP 7 Requirements for supplementary dividend holding companies

When sections LP 7 to LP 9 apply

- (1) This section, and sections LP 8 and LP 9, apply for an income year when a company—
- (a) is a supplementary dividend company when it derives a dividend and a related supplementary dividend; and
 - (b) is not in the same consolidated group as the company paying the dividends, as described in section LP 2(1)(b).

When requirements no longer met

- (2) The company must notify each company from which it may derive a supplementary dividend if it no longer meets the requirements set out in the definition of **supplementary dividend holding company**.

Defined in this Act: company, consolidated group, income year, notify, pay, supplementary dividend, supplementary dividend holding company

Compare: 2004 No 35 s LE 3(1)–(3)

LP 8 Relationship with exempt income rules

What this section applies to

- (1) This section applies to a supplementary dividend holding company that derives a dividend and related supplementary dividend in an income year when, but for this section, both dividends would be exempt income under section CW 10 (Dividend within New Zealand wholly-owned group).

Income

- (2) The supplementary dividend holding company derives assessable income equal to an amount calculated using the formula—

$$\frac{(\text{attached credit} + \text{supplementary amount})}{\text{tax rate}} + \text{attached credit}.$$

Definition of items in formula

- (3) In the formula,—
- (a) **attached credit** is the imputation credit attached to the dividend:
 - (b) **supplementary amount** is the supplementary dividend related to the dividend:
 - (c) **tax rate** is the applicable basic tax rate set out in schedule 1, part A (Basic rates of income tax and specified superannuation contribution withholding tax), expressed as a decimal.

Treatment of imputation credit

- (4) The imputation credit referred to in subsection (3) is assessable income of the supplementary dividend holding company for the income year for the purposes of section LE 1 (Credits of tax for imputation credits).

Defined in this Act: amount, applicable basic tax rate, assessable income, exempt income, imputation credit, income year, New Zealand, supplementary dividend, supplementary dividend holding company

Compare: 2004 No 35 s LE 3(6), (8)

LP 9 Relationship with resident withholding tax rules

When this section applies

- (1) This section applies to a supplementary dividend holding company that derives a dividend and related supplementary dividend in an income year.

When rules do not apply

- (2) The RWT rules do not apply to the dividend or the related supplementary dividend to the extent to which the amount is not more than the amount calculated under section LP 8(2). The RWT rules do not apply to the imputation credit referred to in that section.

Defined in this Act: amount, imputation credit, income year, supplementary dividend, supplementary dividend holding company

Compare: 2004 No 35 s LE 3(7)

LP 10 Limitation on deductions

Limitation on total annual deductions

- (1) Despite section BD 4 (Allocation of deductions to particular income years), the annual total deduction of a supplementary dividend holding company under section BC 3 (Annual total deduction) for a tax year must not be more than an amount calculated using the formula—

$$\frac{\text{company's income} - (\text{company's total credits} + \text{supplementary amount})}{\text{tax rate.}}$$

Definition of items in formula

- (2) In the formula,—
- (a) **company's income** is the supplementary dividend holding company's income for the income year that corresponds to the tax year;
 - (b) **company's total credits** is the supplementary dividend holding company's total amount of credits of tax that are non-refundable credits of

tax, credits of tax for imputation credits, and credits of tax for dividend withholding payment credits for the income year that corresponds to the tax year:

- (c) **supplementary amount** is the total amount of supplementary dividends derived by the supplementary dividend holding company for the income year that corresponds to the tax year:
- (d) **tax rate** is the applicable basic tax rate set out in schedule 1, part A (Basic rates of income tax and specified superannuation contribution withholding tax), expressed as a decimal.

Net losses

- (3) A deduction that would, but for subsection (1), be allocated to the tax year is an available net loss that may be carried forward under Part I (Treatment of net losses) if the relevant requirements in Part I are met.

Calculating credits under this Part

- (4) Subsection (1) does not affect the calculation of the amount of a supplementary dividend holding company's credit of tax under this Part.

Defined in this Act: amount, annual total deduction, applicable basic tax rate, company, credit of tax, deduction, dividend withholding payment, dividend withholding payment credit, imputation credit, income year, net loss, non-refundable credit of tax, supplementary dividend, supplementary dividend holding company, tax year

Compare: 2004 No 35 ss LE 3(10), LE 4

Subpart LQ - Credits of tax of conduit tax relief companies

Contents

- LQ 1 Credits of tax of conduit relief companies
- LQ 2 Limitation on amount of credit
- LQ 3 Determining percentage of non-resident shareholders
- LQ 4 Date for determining percentage of non-resident shareholders
- LQ 5 Conduit tax relief additional dividends

LQ 1 Credits of tax of conduit tax relief companies

When this section applies

- (1) This section applies for a tax year to a conduit tax relief company that remains a conduit tax relief company when it provides its return of income for the tax year.

Amount of credit

- (2) The company has a credit of tax equal to an amount calculating using the formula—

$$\text{percentage of shareholders} \times ((\text{tax rate} \times (\text{company's income} - \text{company's losses} - \text{excess interest allocation})) - \text{company's credits} - \text{amounts credited}).$$

Definition of items in formula

- (3) In the formula,—
 - (a) **percentage of shareholders** is the percentage of the company's shareholders who are not resident in New Zealand determined under section LQ 3:
 - (b) **tax rate** is the applicable basic tax rate for the person set out in schedule 1 part A (Basic rates of income tax and specified superannuation contribution withholding tax), expressed as a decimal:
 - (c) **company's income** is the company's foreign attributed income for the tax year:
 - (d) **company's losses** is the company's foreign attributed loss offsets for the tax year:
 - (e) **excess interest allocation** is the excess interest allocation for the tax year calculated under section FH 7 (Rule for calculating individual excess interest allocation amount):

- (f) **company's credits** is the amount of the company's credit under subpart LK (Credits of tax relating to attributed CFC income) that could be used to satisfy the company's income tax liability for the tax year:
- (g) **amounts credited** is the sum of the following:
 - (i) the amount that the company has available to satisfy their income tax liability for the tax year under section MF 5(4) (Use of credit to reduce dividend withholding payment, or use of debit to satisfy income tax liability); and
 - (ii) the amount that another company in the same group of companies makes available to satisfy the company's income tax liability under section MF 5(4).

Determining certain amounts

- (4) In subsection (3)(f) and (g), the amounts are determined before applying this section.

Defined in this Act: amount, applicable basic tax rate, conduit tax relief company, credit of tax, dividend withholding payment, foreign attributed income, foreign attributed loss offsets, group of companies, income tax liability, resident in New Zealand, return of income, shareholder, tax year

Compare: 2004 No 35 s KH 1(1), (2)

LQ 2 Limitation on amount of credit

Minimum

- (1) An amount of a credit of tax under section LQ 1 must not be less than zero.

Maximum

- (2) An amount of a credit of tax under section LQ 1 must not be more than an amount calculated using the formula—

percentage of shareholders x (company's terminal tax + company's refundable credits).

Definition of items in formula

- (3) In the formula,—
 - (a) **percentage of shareholders** is the percentage of the company's shareholders who are not resident in New Zealand determined under section LQ 3:
 - (b) **company's terminal tax** is the company's terminal tax for the tax year:
 - (c) **company's refundable credits** is the company's refundable credits for the tax year.

Determining certain amounts

- (4) In subsection (3)(b), the amount is determined before applying this section.

Defined in this Act: amount, company, credit of tax, resident in New Zealand, shareholder, tax year, terminal tax

Compare: 2004 No 35 s KH 1(3)

LQ 3 Determining percentage of non-resident shareholders

When this section applies

- (1) This section applies for the purposes of sections LQ 1(3)(a) and LQ 2(3)(a) to determine the percentage of shareholders of a conduit tax relief company that are not resident in New Zealand. The rules for determining residence in sections OE 7 and OE 8 (which relate to residence requirements of conduit tax relief companies) apply for the purposes of this section.

Determining percentage

- (2) The percentage of shareholders who are not resident in New Zealand is the lowest of—
- (a) the percentage of direct voting interests that non-residents held in the company at the applicable time:
 - (b) if a direct market value circumstance exists, the percentage of direct market value interests that non-residents held in the company at the applicable time:
 - (c) if the shares in the company are not all shares of the same class, the percentage of total dividends payable by the company that non-residents would derive if the company were liquidated at the applicable time.

Applicable time

- (3) For the purposes of determining direct voting interests under subsection (2)(a) or direct market value interests under subsection (2)(b),—
- (a) the applicable time is the date on which the company is treated as having paid a dividend to all shareholders under section LQ 4(2); and
 - (b) for each class of shares, the company is treated as having on the applicable date the same shareholders in the class as it had on the last date in the tax year on which a dividend was paid to all the shareholders of the class.

Treasury stock

- (4) For the purposes of this section, treasury stock is disregarded.

Defined in this Act: conduit tax relief company, direct market value circumstance, direct market value interest, direct voting interest, non-resident, resident in New Zealand, share, shareholder, shares of the same class, tax year, voting interest

Compare: 2004 No 35 s KH 2

LQ 4 Date for determining percentage of non-resident shareholders

Date generally

- (1) The determination of a percentage of a conduit tax relief company's non-resident shareholders under section LQ 3 is made either—
 - (a) on the last date in the tax year on which the company pays a dividend to all shareholders; or
 - (b) on the last day of the tax year, if the company does not pay a dividend to all shareholders during the tax year.

When company has more than 1 class of shares

- (2) For the purposes of subsection (1)(a), when a company with more than 1 class of shares pays a dividend to all shareholders of each class of shares in a tax year, the company is treated as having paid a dividend to all shareholders on the last date on which it paid a dividend to all shareholders of 1 of the classes.

Listed companies

- (3) If the company referred to in subsection (1) is a listed company, it may use—
 - (a) the date on which an entitlement to a dividend is determined instead of the date on which the dividend is paid; or
 - (b) a date in the tax year on which the company determines the percentage of non-resident shareholders.

Conduit tax relief group members

- (4) If the company referred to in subsection (1) is part of a wholly-owned group of companies and a conduit tax relief company is also part of the group, subsection (1) applies, modified as applicable by subsection (3), as if the company referred to in that subsection were the company—
 - (a) in which 1 or more non-residents have a direct voting interest; and
 - (b) that has a 100% voting interest in the company that is part of the wholly-owned group.

Calculating voting interests

- (5) In subsection (4)(b), the voting interest is calculated as if section OD 3(3)(d) (Voting interests) did not apply to treat the company's interest as held by others.

Defined in this Act: company, conduit tax relief company, direct voting interest, non-resident, pay, share, shareholder, tax year, voting interest, wholly-owned group of companies

Compare: 2004 No 35 s KH 2

LQ 5 Conduit tax relief additional dividends

When this section applies

- (1) This section applies when a conduit tax relief company pays a dividend to a non-resident, and a conduit tax relief credit is attached to the dividend. The rules for determining residence in sections OE 7 and OE 8 (which relate to residence requirements of conduit tax relief companies) apply for the purposes of this section.

Payment of additional dividend required

- (2) The company must pay a conduit tax relief additional dividend relating to the dividend when the dividend is paid. The additional dividend is exempt income of the company under section CW 11(2) (Dividend of conduit tax relief holding company).

Amount of additional dividend

- (3) The amount of the conduit tax relief additional dividend must be equal to the amount of the conduit tax relief credit attached to the dividend.

Relationship with rules on imputation credits

- (4) Sections GC 22, ME 8, and MG 8 (which relate to the allocation of imputation credits and dividend withholding payment credits) apply as if the company had never paid an additional dividend described in this section.

Class of shares

- (5) The payment of an additional dividend to all non-resident shareholders who hold shares in a particular class does not constitute a breach of—
 - (a) section 53 of the Companies Act 1993; or
 - (b) the company's constitution or its articles of association; or
 - (c) any other provision.

Trusts

- (6) If a trustee derives a dividend and is required under the terms of a trust to distribute it as beneficiary income to a beneficiary, the trustee's distribution of an additional dividend to the same beneficiary does not breach the terms of the trust.

Defined in this Act: amount, beneficiary income, company, conduit tax relief additional dividend, conduit tax relief company, conduit tax relief credit, distribution, exempt income, imputation credit, non-resident, pay, share, shareholder, trustee

Compare: 2004 No 35 s LG 1

Subpart LR - Credits of tax for policyholder income

Contents

LR 1 Credits of tax for policyholder income

LR 1 Credits of tax for policyholder income

Amount of credit

- (1) A person who has a credit in their policyholder credit account for a tax year has a credit of tax equal to the amount, as limited under subsection (2), of the balance of the account determined under sections ME 19, ME 24, and ME 28 (which relate to the use of credit balances against policyholder base income tax liability).

Limitation

- (2) The person's use, under section LA 2 (Satisfaction of income tax liability), of a credit referred to in subsection (1) is limited to the amount that would be their income tax liability for the tax year if their only assessable income were policyholder income in the accounting period in which the amount of tax giving rise to the credit was paid or payable.

Defined in this Act: accounting period, amount, assessable income, credit of tax, income tax liability, policyholder base income tax liability, policyholder credit account, policyholder income, tax year

Compare: 2004 No 35 ss ME 19, ME 24, ME 28

Subpart LZ — Terminating provisions

Contents

Underlying foreign credits

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LZ 2 Certain development projects

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LZ 6 Interest on home vendor mortgages

LZ 7 Maximum amount of credit under section LZ 6

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Credits for savings in special accounts

LZ 9 Savings in special accounts

LZ 10 Maximum amount for 1 special account for 1 tax year

LZ 11 Maximum amount for all special accounts for all tax years

LZ 12 Meaning of increase in savings

Underlying foreign credits

LZ 1 Low tax jurisdiction companies

Earnings and income tax

- (1) If a company is a low tax jurisdiction company during any part of an accounting year ending before 28 September 1993 (a **low tax year**), the earnings of, and the income tax paid or payable by, the company for the low tax year are treated as not existing for purposes of subpart LL (Underlying foreign credits), unless—
- (a) the earnings are dividends derived from another company which is not a low tax jurisdiction company;
 - (b) income tax is paid or payable in respect of the dividends referred to in paragraph (a), and the income tax is payable in the country or territory where the other company (referred to in paragraph (a)) is resident.

Exclusion

- (2) Subsection (1) does not apply if the foreign dividend company is a CFC for the whole of a low tax year, and the low tax year is an accounting year that ends on or after 1 April 1988.

Defined in this Act: accounting year, CFC, company, dividend income tax, foreign dividend company, income tax, low tax jurisdiction company

Compare: 2004 No 35 ss LF 6(1), (3), OB 1

Credits for certain non-resident investment companies

LZ 2 Certain development projects

When this section and sections LZ 3 to LZ 5 apply

- (1) This section and sections LZ 3 to LZ 5 apply to a non-resident investment company in relation to the development projects set out in the orders listed in subsection (2).

Development projects

- (2) The development projects are specified in the following orders:
- (a) the Income Tax (Non-Resident Investment Companies) Order 1970 (SR 1970/138); or

- (b) the Income Tax (Non-Resident Investment Companies) Order 1972 (SR 1972/19); or
- (c) the Income Tax (Non-Resident Investment Companies) Order (No 2) 1972 (SR 1972/248); or
- (d) the Income Tax (Non-Resident Investment Companies) Order (No 3) 1974 (SR 1974/277).

Relationship with sections KF 1, NF 1(2)(a)(vi), NG 1(2)(f), and OB 5

- (3) Sections KF 1, NF 1(2)(a)(vi), NG 1(2)(f), and OB 5 (as they were immediately before their repeal by sections 13, 21, 22, and 26 of the Income Tax Act 1994 Amendment Act (No 3) 1995) apply for the purposes of this section and sections LZ 3 to LZ 5.

Defined in this Act: non-resident investment company

Compare: 2004 No 35 s KZ 3(1), (4)

LZ 3 Interest derived from development investments

When this section applies

- (1) This section applies when—
 - (a) the only assessable income of the non-resident investment company in a tax year is interest derived from development investments; and
 - (b) the amount of the non-resident investment company's income tax liability for the interest is more than the amount of income tax payable by the non-resident investment company on the interest if it had been derived from a source in the country or territory in which the investment company is resident.

Credit of tax

- (2) The non-resident investment company is entitled to a credit of tax equal to the amount of the excess referred to in subsection (1)(b).

Income tax liability under 15% of gross amount of interest

- (3) Despite subsection (2), if the non-resident investment company and the person by whom the interest is paid are not associated persons, the amount of the non-resident investment company's income tax liability for that interest must not be more than 15% of the gross amount of the interest.

Defined in this Act: amount, assessable income, associated person, credit of tax, development investments, gross, income tax, income tax liability, interest, non-resident investment company, resident, tax year

Compare: 2004 No 35 s KZ 3(2)

LZ 4 Dividends derived from development investments

When this section applies

- (1) This section applies when—
- (a) the only assessable income of the non-resident investment company in a tax year consists of dividends derived from development investments; and
 - (b) the amount of the non-resident investment company's income tax liability for those dividends is more than the amount of income tax payable by the non-resident investment company on those dividends if they had been derived from a source in the country or territory in which the non-resident investment company is resident.

Credit of tax

- (2) A non-resident investment company is entitled to a credit of tax equal to the amount of the excess referred to in subsection (1)(b).

Defined in this Act: amount, assessable income, credit of tax, development investments, dividend, income tax, income tax liability, non-resident investment company, resident, tax year

Compare: 2004 No 35 s KZ 3(3)

LZ 5 Some definitions

In sections LZ 2 to LZ 4,—

development investments has the same meaning as in section OB 1 of the Income Tax Act 1994 immediately before its repeal by section 25(6) of the Income Tax Act 1994 Amendment Act (No 3) 1995

non-resident investment company has the same meaning as in section OB 5 of the Income Tax Act 1994 immediately before its repeal by section 26 of the Income Tax Act 1994 Amendment Act (No 3) 1995.

Defined in this Act: development investments, non-resident investment company

Compare: 2004 No 35 s KZ 3(1)

Credits for interest on home vendor mortgages

LZ 6 Interest on home vendor mortgages

When this section applies

- (1) This section applies when, in a tax year, a person derives interest in relation to a home vendor mortgage.

Exclusions

- (2) This section does not apply to—
- (a) an absentee; or
 - (b) a company; or
 - (c) a public authority; or
 - (d) a Maori authority; or
 - (e) an unincorporated body; or
 - (f) a trustee liable for income tax under sections HH 3 to HH 6 and HZ 2 (which relate to trusts and distributions from trusts).

Credit of tax

- (3) The person is entitled to a credit of tax equal to an amount calculated using the formula—

$$\text{interest} \times 0.020.$$

Definition of item in formula

- (4) In the formula, **interest** means the amount of interest in complete dollars that the person derives in the tax year in relation to a home vendor mortgage.

Relationship to section LZ 7

- (5) This section is overridden by section LZ 7.

Defined in this Act: absentee, amount, company, credit of tax, distribution, home vendor mortgage, income tax, interest, Maori authority, public authority, tax year, trust, trustee

Compare: 2004 No 35 s KE 1(1)

LZ 7 Maximum amount of credit under section LZ 6

Maximum amount: 1 person

- (1) If only 1 person has provided the loan secured by a home vendor mortgage, the maximum amount of credit of tax that the person is entitled to under section LZ 6 in a tax year is \$500.

Maximum amount: 2 or more persons

- (2) If 2 or more persons have provided the loan secured by a home vendor mortgage, the maximum amount of credit of tax under section LZ 6 in a tax year is calculated using the formula—

$$\frac{\text{loan provided}}{\text{loan secured}} \times \$500.$$

Definition of items in formula

- (3) In the formula,—
- (a) **loan provided** is the amount of the loan provided by the persons:
 - (b) **loan secured** is the total amount of the loan secured by the home vendor mortgage.

Defined in this Act: amount, credit of tax, home vendor mortgage, tax year

Compare: 2004 No 35 s KE 1(1)

LZ 8 Meaning of home vendor mortgage

In sections LZ 6 and LZ 7, **home vendor mortgage** means a mortgage—

- (a) that secures a loan provided by the vendor or vendors of a house; and
- (b) that is guaranteed by the Housing New Zealand Corporation under its housing mortgage guarantee scheme; and
- (c) that has been approved by the Housing New Zealand Corporation, on or before 5 August 1982, for the purpose of the credit under this section; and
- (d) for which notice of such guarantee and approval and of any variation has been delivered by the Housing New Zealand Corporation to the Commissioner.

Defined in this Act: Commissioner, home vendor mortgage, notice

Compare: 2004 No 35 s KE 1(3)

Credits for savings in special accounts

LZ 9 Savings in special accounts

When this section applies

- (1) This section applies when a person operates a special account in a tax year.

Credit of tax

- (2) The person is entitled to a credit of tax equal to an amount calculated using the formula—

$$\text{increase in savings} \times 0.045.$$

Definition of item in formula

- (3) In the formula, **increase in savings** means the total amount in complete dollars of the person's increase in savings for all special accounts in the tax year.

Relationship with sections LZ 10 and LZ 11

- (4) Sections LZ 10 and LZ 11 override this section.

Defined in this Act: amount, credit of tax, increase in savings, special account, tax year

Compare: 2004 No 35 s KG 1

LZ 10 Maximum amount for 1 special account for 1 tax year

For the purpose of calculating the amount of a credit under section LZ 9, the maximum amount of a single increase in savings for a special account for a tax year is,—

- (a) \$5,000 for a special farm ownership account or a special fishing vessel ownership account; or
(b) \$3,000 for a special home ownership account.

Defined in this Act: amount, increase in savings, special account, special farm ownership account, special fishing ownership account, special home ownership account, tax year

Compare: 2004 No 35 s KG 1

LZ 11 Maximum amount for all special accounts for all tax years

For the purpose of calculating the amount of a credit under section LZ 9, the maximum amount of increase in savings for all special accounts of the person for all tax years is,—

- (a) \$60,000 for a special farm ownership account or a special fishing vessel ownership account; or
- (b) \$10,250 for a special home ownership account.

Defined in this Act: amount, increase in savings, special account, special farm ownership account, special fishing ownership account, special home ownership account, tax year

Compare: 2004 No 35 s KG 1

LZ 12 Meaning of increase in savings

Meaning

- (1) In sections LZ 9 to LZ 11, **increase in savings**, in relation to a special account of a person and a tax year, means the total of—
 - (a) the amount by which the amount standing to the credit of that special account at the end of that tax year or the date of the closure of that account, whichever is the earlier, is more than the amount standing to the credit of that account, if any, at the end of the tax year immediately before that tax year; and
 - (b) the amount of resident withholding tax deducted during that tax year from interest paid for the account.

Withdrawals

- (2) For the purposes of the definition of **increase in savings**,—
 - (a) any amount withdrawn from a special account in accordance with a withdrawal certificate is treated as not having been withdrawn:
 - (b) any amount withdrawn from a special account in accordance with a withdrawal certificate, and subsequently re-deposited in the account, is treated as not having been re-deposited.

Defined in this Act: amount, increase in savings, interest, resident withholding tax, special account, tax year, withdrawal certificate

Compare: 2004 No 35 s KG 1(3), (4)

OB 1

absentee		
accounting period		
accounting year	update section references	
after-income tax earnings	query: rewrite and place in Part L	
after-income tax losses	query: rewrite and place in Part L	
agent		
amalgamated company		
amalgamating company		
amalgamation		
amount		
annual total deduction		
applicable basic tax rate		
assessable income		
assessment		
associated person		
attributed CFC income		
attributed repatriation		
base ratio		
benchmark dividend		
beneficiary income		
bonus issue		
branch equivalent company		
business		
CFC		
charitable purpose		
child	update section references, add LC 8	
close of trading spot exchange rate		
combined imputation and dividend withholding payment ratio		
commencement date	omit	
Commissioner		
communal home	omit	
company		
compensation	new, LC 5	
conduit tax relief additional dividend	update section reference	
conduit tax relief company		
conduit tax relief credit		
consolidated group		
continuity period	new, LP 4	
convertible credit	omit	
corresponding income year		
credit of tax	new ????	
current accounting year	new, OB 1	

deduction		
derived from New Zealand		
development investments	new, LZ 5	
direct market value circumstance		
direct market value interest		
direct voting interest		
distribution	update section references	
dividend		
dividend withholding payment		
dividend withholding payment credit		
dividend withholding payment ratio		
double tax agreement		
eligible accounting year	replaced by UFC accounting period	
employee		
employer monthly schedule		
employment		
engaged in full-time work	new, LC 5	
excess credit amount		
exempt income		
financial arrangement		
financial arrangements rules		
first tracking date	new, LL 9	
fixed rate share	update section references	
foreign attributed income		
foreign attributed loss offsets		
foreign company		
foreign dividend company	new, LL 9	
foreign dividend company net earnings	new, LL 9	
foreign income tax	new, LJ 3	
foreign tax	update section references	
further income tax		
FWP dividend	LL 1, for foreign withholding payment dividend	
generally accepted accounting practice		
gift		
gift of money	new, LD 3	
grey list		
grey list company		
grey list dividend	new, LL 3	
gross		
group of companies		
home	LC 8, update section reference	
home vendor mortgage	LZ 8, update section reference	
housekeeper	LC 7, update section reference	
housekeeping payments	new, LC 8	
imputation credit		
Imputation credit account company		

imputation ratio		
income		
income interest		
income tax		
income tax liability		
income year		
increase in savings	LZ 12, update section reference	
institution	LC 8, update section reference	
interest		
international tax rules	update section references	
loss		
low tax jurisdiction company		
Maori authority		
Maori authority credit		
Maori authority credit account		
market value circumstance		
market value interest		
minimum market value interest	new, LP 4	
minimum voting interest	new, LP 4	
minor	update section references	
money lent		
net income		
net loss		
New Zealand		
New Zealand resident		
New Zealand superannuation		
New Zealand superannuitant		
non-creditable dividend	new, LL 9	
non-resident		
non-refundable credit of tax		
non-resident investment company	new, LZ 5	
non-resident withholding income		
non-resident withholding tax		
notice		
notify		
NRWT rules	update section reference	
paid work	new, LC 5	
pay		
pay period		
personal injury by accident	new, LC 5	
policyholder credit account tax credit		
provisional tax		
public authority		
qualifying amalgamation		
qualifying company		
quarantined amount	new, LK 1	
refundable credit of tax	new, OB 1	
required interest	new, LL 9	

resident in New Zealand		
resident withholding income		
resident withholding tax		
retained earnings	LL 9, update section reference	
return of income		
section LE 3 holding company	omit	
separated person	LC 8, update section reference	
share		
shareholder		
shareholder decision-making rights		
shares of the same class		
slice of foreign-sourced income	new, LJ 4	
source deduction payment		
special account		
special farm ownership account		
special fishing vessel ownership account		
special home ownership account		
spouse		
standard dividend		
starting date	new, LL 3	
supplementary dividend	update section reference	
supplementary dividend holding company	new, OB 1	
tax		
tax agent		
tax deduction		
tax year		
taxable distribution		
taxable Maori authority distribution		
terminal tax	new, OB 1	
time bar		
total credit of tax	new, OB 1	
tracking account	new, LL 9	
tracking associate	new LL 9	
trustee		
UFC accounting period	new, OB 1	
veteran's pension		
voting interest		
wholly-owned group of companies		
withdrawal certificate		
withholding payment		
year		
year of payment	new, LP 2	

credit of tax is defined in section LA 10 (Meaning of credit of tax)

current accounting year, for purposes of subpart LL (Underlying foreign credits) and the definition of **UFC accounting period**, means the accounting year in which a company pays a foreign withholding payment dividend

engaged in full-time work is defined in section LC 5 (Meaning of engaged in full-time work) for the purposes of section LC 4

housekeeping payments is defined in section LC 8 (Some other definitions)

non-refundable credit of tax means—

- (a) a credit of tax under subpart LC (Credits of tax for natural persons), excluding section LC 6 (Credits of tax for housekeeping):
- (b) a credit of tax under subpart LJ (Credits of tax for foreign income tax):
- (c) a credit of tax under subpart LK (Credits of tax relating to attributed CFC income):
- (d) a credit of tax under subpart LQ (Credits of tax of conduit relief companies):
- (e) a credit of tax under subpart LR (Credits of tax for policyholder income)

refundable credit of tax means—

- (a) a credit of tax under subpart LB (Credits of tax for payments, deductions, and family income assistance):
- (b) a credit of tax under subpart LF (Credits of tax for dividend withholding payment credits), excluding section LF 7 (Credits for persons who are non-resident or who receive exempt income):
- (c) a credit of tax under subpart LO (Credits of tax for Maori authority credits)

slice of foreign-sourced income is defined in section LJ 4 (Meaning of slice of foreign-sourced income)

supplementary dividend holding company means a company—

- (a) that is resident in New Zealand; and

- (b) that has notified another company within the previous 7 years that it is a supplementary dividend company, and has not revoked the notice; and
- (c) that has a purpose of directly or indirectly enabling the payment of a supplementary dividend to a non-resident; and
- (d) in which some voting interests are held by non-residents; and
- (e) that derives dividends that are not excluded income or exempt income other than income under sections CW 9 to CW 11 (which relate to income from equity)

terminal tax means the difference between a person's income tax liability for a tax year and their total credit of tax for the year

total credit of tax means an amount equal to the total of a person's credits of tax for a tax year, excluding a credit of tax under—

- (a) section LC 6 (Credits of tax for housekeeping); and
- (b) section LF 7 (Credits for persons who are non-resident or who receive exempt income); and
- (c) subparts LD and LL (which relate to credits with special uses)

UFC accounting period, for a person and a dividend paid by a company, means an accounting year of a company that is—

- (a) an accounting year of the company, if the person has throughout the accounting year the required interest in the company under section LL 9 (Some definitions) :
- (b) 1 of the following:
 - (i) the accounting year in which the dividend is paid; or
 - (ii) the accounting year of the company immediately before the accounting year in which the dividend is paid; or
 - (iii) an accounting year immediately before a UFC accounting period:
- (c) if the company is a low tax jurisdiction company at any time during the accounting year, the accounting year

Schedule 12A

Listed societies, institutions, associations, organisations, trusts, or funds for purposes of section LD 3

Adventist Development and Relief Agency
African Enterprise (New Zealand) Aid and Development Fund
Akha Rescue Ministry Charitable Trust
Alhay Buhay Foundation Trust
Amnesty International
Bangladesh Flood Appeal Trust
Books for Africa
Bright Hope International Trust
Caritas Aotearoa-New Zealand
Channel 2 Cyclone Aid for Samoa
Cheboche Area Trust Incorporated
Christian Blind Mission International (New Zealand)
Christian Children's Fund of New Zealand Limited (CCFNZ)
Christian World Service
Community Action Overseas (Oxfam NZ)
CORSO (Incorporated)
Cry for the World Foundation New Zealand Humanitarian Aid Fund
Cyclone Ofa Relief Fund
Cyclone Val Relief Fund
Four Sherpa Trust
Greater Mekong Subregion Tertiary Education Consortium Trust
Help a Child Foundation New Zealand
International Christian Aid (ICA)
Karunai Illam Trust
Medicine Mondiale
Mission Without Borders (NZ), Humanitarian Aid Account
Mobility Equipment for the Needs of Disabled Trust
Nelson Mandela Trust (New Zealand)
New Zealand Jesuits in India Trust
New Zealand Sports Foundation (Incorporated)
New Zealand Viet Nam Health Trust

Open Home Foundation International Trust
Operation Hope (Aid Ship to Africa)
Operation Vanuatu Charitable Trust
Plan New Zealand
“Raphael” (The Ryder-Cheshire Foundations of New Zealand)
Register of Engineers for Disaster Relief New Zealand
Sampoerna Foundation Limited
Save the Children New Zealand (and its branches)
Sport and Recreation New Zealand
St Stanislas Charitable Trust of New Zealand
Surf Aid International Incorporated
The Commonwealth Foundation
The Evangelical Alliance Relief Fund (TEAR Fund)
The Fred Hollows Foundation (NZ)
The Food Bank of New Zealand
The Hillary Himalayan Foundation
The Leprosy Mission New Zealand Incorporated
The New Zealand Rotary Clubs Charitable Trust
The New Zealand Society for the Intellectually Handicapped (Incorporated)
The Norman Kirk Memorial Trust Fund
The Pacific Leprosy Foundation
The Red Cross Society Incorporated
The Serious Road Trip Charitable Trust
The Sir Edmund Hillary Trust
The Sir Walter Nash Vietnam Appeal
The United Nations International Children's Emergency Fund (UNICEF)
The Volunteer Service Abroad (Incorporated)
The Winston Churchill Memorial Trust
Together for Uganda
Valehead Community Health Centre Trust
Water for Survival
World Vision of New Zealand (Incorporated)

Subpart CV - Income specific to certain entities

CV 3 Supplementary dividend holding companies

When this section applies

- (1) This section applies to a supplementary dividend holding company that derives a dividend and related supplementary dividend in an income year when, but for section LP 8 (Relationship with exempt income rules), both dividends would be exempt income under section CW 10 (Dividend within New Zealand wholly-owned group).

Income

- (2) The amount calculated under section LP 8(2) is assessable income of the supplementary dividend holding company.

Defined in this Act: amount, assessable income, dividend, exempt income, income year, supplementary dividend, supplementary dividend holding company

Compare: 2004 No 35 s LE 3(6), (8)

DX - Other expenditure

DX 2 Credits of tax: conduit financing arrangements

When this section applies

- (1) This section applies when a company derives a dividend from a foreign company, or a person resident in New Zealand and associated at the time with the company derives a dividend from a foreign company, in the circumstances set out in section LL 7 (Conduit financing arrangements).

Limited deduction

- (2) Despite section BD 2 (Deductions), the company is allowed a deduction for the expenditure for a tax year only to the extent set out in section LL 7(2).

Defined in this Act: associated person, company, deduction, dividend, foreign company, resident in New Zealand, tax year

Compare: 2004 No 35 s LF 7

DX 3 Credits of tax: supplementary dividend holding companies

When this section applies

- (1) This section applies when a supplementary dividend holding company derives a supplementary dividend in relation to which it has an annual total deduction as described in section LP 10 (Limitations on deductions).

Limited deduction

- (2) Despite section BD 4 (Allocation of deductions to particular income years), the company is allowed a deduction for the expenditure for a tax year only to the extent set out in section LP 10(1).

Defined in this Act: annual total deduction, deduction, supplementary dividend holding company, tax year

Compare: 2004 No 35 ss LE 3(10), LE 4

Schedule 1, part C

“An amount that is not more than \$9,500 (**low income amount**)”

“an amount that is more than \$9,500 and not more than \$38,000 (**low income abatement range**)”

Tax Administration Act 1994

78B Applications for credits of tax

- (1) A taxpayer who has a credit of tax under section LJ 2 or LK 1 of the Income Tax Act 2004 must apply for the credit within 4 years after the end of the tax year in which the taxpayer would have the credit of tax in the absence of this section. The Commissioner may extend this 4-year period by another period of up to 2 years.
- (2) The taxpayer must provide with the application under subsection (1) information that is necessary to determine the amount of the credit.

Compare: 2004 No 35 s LC 13(1)

78C Disclosure when changes occur

A taxpayer must provide to the Commissioner, as soon as possible, all relevant information if—

- (a) an amount referred to in section LJ 6 of the Income Tax Act 2004 is changed; and
- (b) the change occurs after the taxpayer has made an application under section 78B.

Compare: 2004 No 35 s LC 13(2)

78D Evidential requirements for credits of tax

A taxpayer who has a credit of tax under section LB 3 or subparts LE, LF, or LO of the Income Tax Act 2004, must provide the Commissioner with sufficient evidence of the credit, including, as applicable—

- (a) for an imputation credit, a shareholder dividend statement;
- (b) for a dividend withholding payment credit, a shareholder dividend statement for the dividend withholding payment credit;
- (c) for a credit for a tax deduction in relation to resident withholding tax, resident withholding tax deduction certificates for the amount of resident withholding tax in relation to the taxpayer's resident withholding income;
- (d) for a Maori authority credit, a Maori authority distribution statement for the Maori authority credit;

- (e) any other information that the Commissioner may require.

Compare: 2004 No 35 ss LB 2(4), LD 3(4), LD 3A(5), LD 8(3), LD 9(4)

78E Information for underlying foreign credits

- (1) For the purposes of section LL 2(5) of the Income Tax Act 2004, a taxpayer must have available to provide, if asked,—
 - (a) a copy of a receipt issued by the relevant revenue authority evidencing payment of the relevant tax; or
 - (b) a copy of a foreign return of income that is of substantially the same nature as a return of income under the Revenue Acts, when the return of income has been provided to the relevant revenue authority and shows the relevant tax as payable; or
 - (c) a copy of a demand, statement of account, or a similar document issued by the relevant revenue authority, seeking payment of the relevant tax.
- (2) Subsection (1) does not apply if the Commissioner is satisfied that the relevant tax is paid or payable.

Compare: 2004 No 35 s LF 6(4)

78F Time for providing information in relation to underlying foreign credits

A taxpayer who has a credit of tax for an amount of underlying foreign tax must provide to the Commissioner information that is necessary to verify a calculation of their credit under subpart LL of the Income Tax Act 2004 within—

- (a) 4 years after the end of the accounting year in which the person may first use the credit under section NH 2(1) of the Income Tax Act 2004; and
- (b) a further time that the Commissioner may allow, having regard to the time allowed for applications under section 78B.

Compare: 2004 No 35 s LF 6(6)

Section 108, or 108B

amendment for section LA 6(3)

- (3) The Commissioner may amend an assessment or a determination to give effect to section LA 6(3) of the Income Tax Act 2004 despite the time bar.

Section 177C(5B) and (5C) are replaced by—

- (5B) If the Commissioner writes off outstanding tax for a taxpayer who has a credit of tax carried forward under subpart LE of the Income Tax Act 2004, the Commissioner must extinguish an amount of the credit of tax on a one-for-one basis.
- (5C) If a taxpayer has both a net loss to which subsection (5) applies and a credit of tax to which subsection (5B) applies, the Commissioner must extinguish the net loss before extinguishing the credit of tax.

225B Order in Council to amend schedule 6

- (1) The Governor-General may from time to time, by Order in Council, amend schedule 6 of the Income Tax Act 2004 by—
 - (a) adding a country or territory outside New Zealand:
 - (b) adding types of income for a country or territory outside New Zealand:
 - (c) omitting a country or territory outside New Zealand:
 - (d) omitting types of income for a country or territory outside New Zealand.
- (2) An amendment by Order in Council under subsection (1)(a) or (b) is repealed on 31 December in the tax year following the tax year in which the Order in Council is made, unless Parliament otherwise enacts.

Compare: 2004 No 35 s LC 1A(1), (2)