

## **Part M**

### **Memorandum accounts**

#### **Contents**

MA	General provisions
MB	Imputation credit accounts
MC	Foreign dividend withholding payment accounts
MD	Conduit tax relief accounts
ME	Branch equivalent tax accounts
MF	Available subscribed capital accounts
MJ	Policyholder credit accounts
MK	Maori authority credit accounts
MP	Memorandum accounts of consolidated companies
MZ	Terminating provisions

## MA—General provisions

### *Introductory provisions*

- MA 1 What this Part does
- MA 2 Memorandum accounts
- MA 3 General rules for maintaining memorandum accounts
- MA 4 Certain credits and debits arising only in group accounts

### *Credits and debits*

- MA 5 Credits
- MA 6 Debits

### *Opening balances*

- MA 7 Opening balances of memorandum accounts

### *Shareholder continuity requirements*

- MA 8 Shareholder continuity requirements for memorandum accounts

### *Treatment of credits and debits on qualifying amalgamation*

#### *General provision*

- MA 9 General treatment of credits and debits on qualifying amalgamation

#### *When companies amalgamate*

- MA 10 Memorandum accounts on qualifying amalgamation
- MA 11 FDWP account on qualifying amalgamation
- MA 12 Conduit tax relief account on qualifying amalgamation
- MA 13 Policyholder credit account on qualifying amalgamation

#### *Amalgamation of companies in consolidated groups*

- MA 14 Continuity of shareholding when group companies amalgamate
- MA 15 When credits or debits due but not recorded
- MA 16 When FDWP account ends on qualifying amalgamation
- MA 17 When policyholder credit account ends on qualifying amalgamation

## MB—Imputation credit accounts

### *Introductory provisions*

- MB 1 General rules for companies with imputation credit accounts
- MB 2 Australian companies with imputation credit accounts

MB 3 Imputation credit accounts

*Imputation credits*

Table M1: imputation credits

- MB 4 ICA payment of tax
- MB 5 ICA deposit in tax pooling account
- MB 6 ICA transfer from tax pooling account
- MB 7 ICA payment of further income tax
- MB 8 ICA deduction of resident withholding tax
- MB 9 ICA derivation of dividend with imputation credit
- MB 10 ICA derivation of dividend with FDWP credit
- MB 11 ICA payment of FDWP
- MB 12 ICA transfer from FDWP account
- MB 13 ICA debit balance on leaving wholly-owned group
- MB 14 ICA payment of tax on leaving wholly-owned group
- MB 15 ICA payment of tax on joining wholly-owned group
- MB 16 ICA attribution for personal services
- MB 17 ICA transfer from policyholder credit account
- MB 18 ICA transfer from ASC account
- MB 19 ICA transfer to master fund
- MB 20 ICA distribution with Maori authority credit
- MB 21 ICA balance of Maori authority credit account
- MB 22 ICA credit on qualifying amalgamation
- MB 23 ICA reversal of tax advantage arrangement
- MB 24 ICA elimination of double debit
- MB 25 ICA deduction of non-resident withholding tax
- MB 26 ICA deduction from withholding payment
- MB 27 ICA payment of schedular income tax

*Imputation debits*

Table M2: imputation debits

- MB 28 ICA payment of dividend
- MB 29 ICA allocation of provisional tax
- MB 30 ICA refund of income tax
- MB 31 ICA amount applied to pay other taxes
- MB 32 ICA refund from tax pooling account

- MB 33 ICA transfer within tax pooling account
- MB 34 ICA refund of FDWP
- MB 35 ICA refund of tax credit
- MB 36 ICA overpayment of FDWP
- MB 37 ICA transfer from net foreign attributed income
- MB 38 ICA attribution for personal services
- MB 39 ICA debit for loss of shareholder continuity
- MB 40 ICA on-market cancellation
- MB 41 ICA breach of imputation ratio
- MB 42 ICA debit on leaving wholly-owned group
- MB 43 ICA redemption debit
- MB 44 ICA transfer to member fund
- MB 45 ICA transfer to policyholder credit account
- MB 46 ICA credit balance when Maori authority credit account starts
- MB 47 ICA imputation credit of consolidated imputation group
- MB 48 ICA debit on qualifying amalgamation
- MB 49 ICA tax advantage arrangement
- MB 50 ICA retrospective imputation credit
- MB 51 ICA final balance
- MB 52 ICA refund of non-resident withholding tax
- MB 53 ICA refund of withholding payment
- MB 54 ICA refund of schedular income tax

***Imputation credits attached to dividends***

- MB 55 Imputation credits attached to dividends
- MB 56 ICA benchmark dividend rules
- MB 57 Retrospective attachment of imputation credits

***Further income tax***

- MB 58 Further income tax for ICA closing debit balance
- MB 59 Further income tax when company stops being ICA company
- MB 60 Reduction of further income tax
- MB 61 Income tax paid satisfying liability for further income tax
- MB 62 Further income tax paid satisfying liability for income tax
- MB 63 Application of other provisions

*Additional income tax*

- MB 64 Additional income tax on leaving wholly-owned group
- MB 65 Additional income tax on joining wholly-owned group

*Distributions of statutory producer boards and co-operative companies*

- MB 66 Statutory producer boards attaching imputation credits to cash distributions
- MB 67 Statutory producer boards attaching imputation credits to notional distributions
- MB 68 Statutory producer boards' notional distributions that are dividends
- MB 69 Statutory producer boards attaching FDWP credits
- MB 70 When and how statutory producer board makes election
- MB 71 Co-operative companies attaching imputation credits to cash distributions
- MB 72 Co-operative companies attaching imputation credits to notional distributions
- MB 73 Co-operative companies' notional distributions that are dividends
- MB 74 Co-operative companies attaching FDWP credits
- MB 75 When and how co-operative company makes election

**MC—Foreign dividend withholding payment accounts**

*Introductory provisions*

- MC 1 General rules for companies with FDWP accounts
- MC 2 FDWP accounts
- MC 3 Choosing to become FDWP company
- MC 4 When company chooses to stop being FDWP company

*FDWP credits*

Table M3: FDWP credits

- MC 5 FDWPA payment of FDWP
- MC 6 FDWPA derivation of dividend with FDWP credit
- MC 7 FDWPA payment of FDWP for transfer from conduit tax relief account
- MC 8 FDWPA transfer for net foreign attributed income
- MC 9 FDWPA payment of FDWP for conduit debit balance
- MC 10 FDWPA reversal of tax advantage arrangement

*FDWP debits*

Table M4: FDWP debits

- MC 11 FDWPA payment of dividend

- MC 12 FDWPA refund of FDWP
- MC 13 FDWPA overpayment of FDWP
- MC 14 FDWPA refund of tax credit
- MC 15 FDWPA transfer to imputation credit account
- MC 16 FDWPA transfer to conduit tax relief account
- MC 17 FDWPA transfer to policyholder credit account
- MC 18 FDWPA transfer to group account
- MC 19 FDWPA breach of FDWP ratio
- MC 20 FDWPA breach of FDWP ratio by PCA company
- MC 21 FDWPA debit for loss of shareholder continuity
- MC 22 FDWPA tax advantage arrangement
- MC 23 FDWPA final balance

*FDWP credits attached to dividends*

- MC 24 FDWP credits attached to dividends
- MC 25 FDWPA benchmark dividend rules
- MC 26 FDWP credits and imputation credits attached to dividends

*Further FDWP*

- MC 27 Payment of further FDWP for closing debit balance
- MC 28 Payment of further FDWP when company no longer New Zealand resident
- MC 29 Reduction of further FDWP
- MC 30 FDWP paid satisfying liability for further FDWP
- MC 31 Further FDWP paid satisfying liability for FDWP

*Some definitions for section MC 20*

- MC 32 Meaning of FDWP reference period
- MC 33 Meaning of maximum deficit debit
- MC 34 Meaning of policyholder FDWP ratio
- MC 35 Meaning of reduced deficit debit
- MC 36 Meaning of shareholder FDWP ratio

## MD—Conduit tax relief accounts

### *Introductory provisions*

- MD 1 General rules for companies with conduit tax relief accounts
- MD 2 Conduit tax relief accounts
- MD 3 Choosing to become conduit tax relief company
- MD 4 When company stops being conduit tax relief company

### *Conduit tax relief credits*

Table M5: conduit tax relief credits

- MD 5 CTRA rebate for conduit tax relief
- MD 6 CTRA transfer from FDWP account
- MD 7 CTRA derivation of dividend with conduit tax relief credit
- MD 8 CTRA reduction of FDWP
- MD 9 CTRA reversal of tax advantage arrangement

### *Conduit tax relief debits*

Table M6: conduit tax relief debits

- MD 10 CTRA payment of dividend
- MD 11 CTRA transfer to FDWP account
- MD 12 CTRA transfer to group account
- MD 13 CTRA adjustment for conduit tax relief
- MD 14 CTRA break in shareholding chain for group company
- MD 15 CTRA break in shareholding chain for company
- MD 16 CTRA increase in resident shareholding
- MD 17 CTRA breach of conduit tax relief ratio
- MD 18 CTRA tax advantage arrangement
- MD 19 CTRA final balance

### *Conduit tax relief credits attached to dividends*

- MD 20 Conduit tax relief credits attached to dividends
- MD 21 CTRA benchmark dividend rules
- MD 22 Conduit tax relief credits and imputation credits attached to dividends

### *Payment of FDWP and refunds*

- MD 23 FDWP payable for conduit tax relief debits

- MD 24 FDWP payable on qualifying amalgamation
- MD 25 Refunds on transfers to conduit tax relief account

## ME—Branch equivalent tax accounts

### *Introductory provision*

- ME 1 General rules for companies and other persons with branch equivalent tax accounts

### *Companies with branch equivalent tax accounts*

#### *Introductory provisions*

- ME 2 Branch equivalent tax accounts of companies
- ME 3 Choosing to become BETA company
- ME 4 When company stops being BETA company
- ME 5 Treatment of attributed CFC income and FIF income in this subpart

#### *Branch equivalent tax credits*

Table M7: branch equivalent tax credits

- ME 6 BETA payment of income tax on foreign income
- ME 7 BETA payment of income tax
- ME 8 BETA remaining debit balances
- ME 9 BETA refund of FDWP
- ME 10 BETA credit for loss of shareholder continuity
- ME 11 BETA final balance

#### *Branch equivalent tax debits*

Table M8: branch equivalent tax debits

- ME 12 BETA payment of FDWP
- ME 13 BETA reduction in FDWP
- ME 14 BETA refund of income tax
- ME 15 BETA debit for loss of shareholder continuity
- ME 16 BETA final balance

### *Persons with branch equivalent tax accounts*

#### *Introductory provisions*

- ME 17 Person choosing to become BETA person
- ME 18 When person stops being BETA person



*Branch equivalent tax credits*

Table M9: person's branch equivalent tax credits

ME 19 BETA person's payment of income tax on foreign income

*Branch equivalent tax debits*

Table M10: person's branch equivalent tax debits

ME 20 BETA person's payment of income tax

ME 21 BETA person's refund of income tax

ME 22 BETA person's final balance

**MF—Available subscribed capital accounts**

*Introductory provisions*

MF 1 General rules for companies with ASC accounts

MF 2 ASC accounts

MF 3 Choosing to become ASC account company

MF 4 When qualifying trust or group investment fund is liquidated

*ASC account credits*

Table M11: ASC account credits

MF 5 ASCA redemption debit

*ASC account debits*

Table M12: ASC account credits

MF 6 ASCA transfer to imputation credit account

**MJ—Policyholder credit accounts**

*Introductory provision*

MJ 1 General rules for companies and other persons with policyholder credit accounts

*Companies with policyholder credit accounts*

*Introductory provision*

MJ 2 Policyholder credit accounts of companies

*Policyholder credits of PCA company*

Table M13: policyholder credits

- MJ 3 PCA transfer from imputation credit account
- MJ 4 PCA transfer from FDWP account
- MJ 5 PCA transfer of life insurance business
- MJ 6 PCA credit for maximum deficit in FDWP account
- MJ 7 PCA credit for reduced deficit in FDWP account

*Policyholder debits of PCA company*

Table M14: policyholder debits

- MJ 8 PCA payment of tax relating to policyholder base
- MJ 9 PCA transfer to imputation credit account
- MJ 10 PCA transfer to group account
- MJ 11 PCA company's transfer of life insurance business

*Persons with policyholder credit accounts*

*Introductory provisions*

- MJ 12 Choosing to become PCA person
- MJ 13 Choosing to stop being PCA person

*Policyholder credits of PCA person*

Table M15: person's policyholder credits

- MJ 14 PCA person's treatment of imputation credit account
- MJ 15 PCA person's transfer of life insurance business

*Policyholder debits of PCA person*

Table M16: person's policyholder debits

- MJ 16 PCA person's payment of tax relating to policyholder base
- MJ 17 PCA person's treatment of imputation credit account
- MJ 18 PCA person's transfer of life insurance business

## **MK—Maori authority credit accounts**

### *Introductory provision*

MK 1 General rules for Maori authorities with Maori authority credit accounts

### *Maori authority credits*

Table M17: Maori authority credits

- MK 2 MACA payment of tax
- MK 3 MACA payment of tax to other Maori authorities
- MK 4 MACA payment of further income tax
- MK 5 MACA distribution with Maori authority credit
- MK 6 MACA derivation of dividend with imputation credit
- MK 7 MACA derivation of dividend with FDWP credit
- MK 8 MACA deduction of resident withholding tax
- MK 9 MACA reversal of tax advantage arrangement

### *Maori authority debits*

Table M18: Maori authority debits

- MK 10 MACA distribution
- MK 11 MACA allocation of provisional tax
- MK 12 MACA refund of income tax
- MK 13 MACA payment of other taxes
- MK 14 MACA refund of FDWP
- MK 15 MACA debit for loss of shareholder continuity
- MK 16 MACA breach of Maori authority credit ratio
- MK 17 MACA tax advantage arrangement
- MK 18 MACA final balance

### *Maori authority credits attached to distributions*

- MK 19 Maori authority credits attached to distributions
- MK 20 MACA benchmark distribution rules

### *Further income tax*

- MK 21 Further income tax for closing credit balance
- MK 22 Further income tax when Maori authority no longer Maori authority
- MK 23 Further income tax paid satisfying liability for income tax

MK 24 Income tax paid satisfying liability for further income tax

## MP—Memorandum accounts of consolidated companies

### *General provisions*

- MP 1 Memorandum accounts of consolidated groups
- MP 2 When credits and debits arise only in group accounts

### *Consolidated groups and imputation credit accounts*

#### *Introductory provisions*

- MP 3 Changes in consolidated imputation groups
- MP 4 Resident imputation subgroups
- MP 5 When credits and debits arise only in consolidated imputation group accounts
- MP 6 Provisions applying to consolidated imputation groups

#### *Imputation credits of consolidated imputation groups*

Table M19: imputation credits of consolidated imputation groups

- MP 7 Consolidated ICA payment of tax
- MP 8 Consolidated ICA deposit in tax pooling account
- MP 9 Consolidated ICA transfer from tax pooling account
- MP 10 Consolidated ICA allocation from excess company
- MP 11 Consolidated ICA payment of further income tax
- MP 12 Consolidated ICA derivation of dividend with imputation credit
- MP 13 Consolidated ICA derivation of dividend with FDWP credit
- MP 14 Consolidated ICA payment of FDWP
- MP 15 Consolidated ICA deduction of resident withholding tax
- MP 16 Consolidated ICA transfer from group company's FDWP account
- MP 17 Consolidated ICA transfer from group's FDWP account
- MP 18 Consolidated ICA transfer from group company's policyholder credit account
- MP 19 Consolidated ICA transfer from group's policyholder credit account
- MP 20 Consolidated ICA group company's credit
- MP 21 Consolidated ICA elimination of double debit
- MP 22 Consolidated ICA reversal of tax advantage arrangement
- MP 23 Consolidated ICA deduction of non-resident withholding tax
- MP 24 Consolidated ICA deduction from withholding payment
- MP 25 Consolidated ICA payment of schedular income tax

*Imputation debits of consolidated imputation groups*

Table M20: imputation debits of consolidated imputation groups

- MP 26 Consolidated ICA payment of dividend
- MP 27 Consolidated ICA allocation of provisional tax
- MP 28 Consolidated ICA refund of income tax
- MP 29 Consolidated ICA amount applied to pay other taxes
- MP 30 Consolidated ICA refund from tax pooling account
- MP 31 Consolidated ICA transfer to tax pooling account
- MP 32 Consolidated ICA refund of FDWP
- MP 33 Consolidated ICA refund of tax credit
- MP 34 Consolidated ICA overpayment of FDWP
- MP 35 Consolidated ICA group company's debit
- MP 36 Consolidated ICA transfer for net foreign attributed income
- MP 37 Consolidated ICA debit for loss of shareholder continuity
- MP 38 Consolidated ICA breach of imputation ratio
- MP 39 Consolidated ICA transfer to policyholder credit account
- MP 40 Consolidated ICA redemption debit
- MP 41 Consolidated ICA tax advantage arrangement
- MP 42 Consolidated ICA final balance
- MP 43 Consolidated ICA refund of non-resident withholding tax
- MP 44 Consolidated ICA refund of withholding payment
- MP 45 Consolidated ICA refund of schedular income tax

*Consolidated groups and FDWP accounts*

*Introductory provisions*

- MP 46 FDWP accounts of consolidated FDWP groups
- MP 47 Choosing to stop being consolidated FDWP group
- MP 48 When credits and debits arise only in consolidated FDWP group accounts
- MP 49 Provisions applying to consolidated FDWP groups

*FDWP credits of consolidated FDWP groups*

Table M21: FDWP credits of consolidated FDWP groups

- MP 50 Consolidated FDWPA payment of FDWP
- MP 51 Consolidated FDWPA payment of further FDWP
- MP 52 Consolidated FDWPA derivation of dividend with FDWP credit

- MP 53 Consolidated FDWPA group company's credit
- MP 54 Consolidated FDWPA transfer from group's conduit tax relief account
- MP 55 Consolidated FDWPA transfer for net foreign attributed income
- MP 56 Consolidated FDWPA reversal of tax advantage arrangement

*FDWP debits of consolidated FDWP groups*

Table M22: FDWP debits of consolidated FDWP groups

- MP 57 Consolidated FDWPA payment of dividend
- MP 58 Consolidated FDWPA refund of FDWP
- MP 59 Consolidated FDWPA overpayment of FDWP
- MP 60 Consolidated FDWPA refund of tax credit
- MP 61 Consolidated FDWPA transfer to imputation credit account
- MP 62 Consolidated FDWPA transfer to group's conduit tax relief account
- MP 63 Consolidated FDWPA group company's debit
- MP 64 Consolidated FDWPA breach of FDWP ratio
- MP 65 Consolidated FDWPA debit for loss of shareholder continuity
- MP 66 Consolidated FDWPA transfer to policyholder credit account
- MP 67 Consolidated FDWPA breach of FDWP ratio by PCA company
- MP 68 Consolidated FDWPA tax advantage arrangement
- MP 69 Consolidated FDWPA final balance

*Consolidated companies and conduit tax relief accounts*

*Introductory provisions*

- MP 70 Conduit tax relief accounts of consolidated groups
- MP 71 When credits and debits arise only in conduit tax relief group accounts
- MP 72 Provisions applying to consolidated groups with conduit tax relief accounts

*Conduit tax relief credits of consolidated groups*

Table M23: conduit tax relief accounts of consolidated groups

- MP 73 Consolidated CTRA rebate for conduit tax relief
- MP 74 Consolidated CTRA reduction of FDWP
- MP 75 Consolidated CTRA derivation of dividend with conduit tax relief credit
- MP 76 Consolidated CTRA group company's credit
- MP 77 Consolidated CTRA transfer from group's FDWP account
- MP 78 Consolidated CTRA reversal of tax advantage arrangement

*Conduit tax relief debits of consolidated groups*

Table M24: conduit tax relief debits of consolidated groups

- MP 79 Consolidated CTRA payment of dividend
- MP 80 Consolidated CTRA transfer to group's FDWP account
- MP 81 Consolidated CTRA adjustment for conduit tax relief
- MP 82 Consolidated CTRA group company's debit
- MP 83 Consolidated CTRA increase in resident shareholding
- MP 84 Consolidated CTRA breach of conduit tax relief ratio
- MP 85 Consolidated CTRA tax advantage arrangement
- MP 86 Consolidated CTRA final balance

*Consolidated groups' FDWP payments and refunds*

- MP 87 FDWP payable for credits and debits in group's conduit tax relief account
- MP 88 Refund on transfer from group's FDWP account

*Consolidated groups and branch equivalent tax accounts*

*Introductory provisions*

- MP 89 Branch equivalent tax accounts of consolidated BETA groups
- MP 90 Choosing to stop being consolidated BETA group
- MP 91 When credits and debits arise only in branch equivalent tax group accounts

*Branch equivalent tax credits of consolidated BETA groups*

Table M25: branch equivalent tax credits of consolidated BETA groups

- MP 92 Consolidated BETA payment of income tax on foreign income
- MP 93 Consolidated BETA payment of income tax
- MP 94 Consolidated BETA remaining debit balances
- MP 95 Consolidated BETA refund of FDWP
- MP 96 Consolidated BETA credit for loss of shareholder continuity

*Branch equivalent tax debits of consolidated BETA groups*

Table M26: branch equivalent tax debits of consolidated BETA groups

- MP 97 Consolidated BETA payment of FDWP
- MP 98 Consolidated BETA reduction of FDWP
- MP 99 Consolidated BETA refund of income tax
- MP 100 Consolidated BETA debit for loss of shareholder continuity

*Consolidated groups and policyholder credit accounts*

*Introductory provision*

MP 101 Policyholder credit accounts of consolidated groups

*Policyholder credits of consolidated groups*

Table M27: policyholder credits of consolidated groups

MP 102 Consolidated PCA transfer from imputation credit account

MP 103 Consolidated PCA transfer from FDWP account

MP 104 Consolidated PCA group company's credit

MP 105 Consolidated PCA maximum deficit debit in FDWP account

MP 106 Consolidated PCA reduced deficit debit in FDWP account

*Policyholder debits of consolidated groups*

Table M28: policyholder debits of consolidated groups

MP 107 Consolidated PCA payment of tax relating to policyholder base

MP 108 Consolidated PCA transfer to imputation credit account

**MZ—Terminating provisions**

MZ 1 No imputation credit for pre-imputation tax paid

MZ 2 No imputation debit for pre-imputation refund

MZ 3 Overpaid income tax or FDWP for pre-imputation income year

MZ 4 Terminating modifications to debits for loss of shareholder continuity

MZ 5 ASCA lost excess available subscribed capital

MZ 6 ASCA redemption of unused investments



## **Subpart MA—General provisions**

### Contents

#### *Introductory provisions*

- MA 1 What this Part does
- MA 2 Memorandum accounts
- MA 3 General rules for maintaining memorandum accounts
- MA 4 Certain credits and debits arising only in group accounts

#### *Credits and debits*

- MA 5 Credits
- MA 6 Debits

#### *Opening balances*

- MA 7 Opening balances of memorandum accounts

#### *Shareholder continuity requirements*

- MA 8 Shareholder continuity requirements for memorandum accounts

#### *Treatment of credits and debits on qualifying amalgamation*

##### *General provision*

- MA 9 General treatment of credits and debits on qualifying amalgamation

##### *When companies amalgamate*

- MA 10 Memorandum accounts on qualifying amalgamation
- MA 11 FDWP account on qualifying amalgamation
- MA 12 Conduit tax relief account on qualifying amalgamation
- MA 13 Policyholder credit account on qualifying amalgamation

##### *Amalgamation of companies in consolidated groups*

- MA 14 Continuity of shareholding when group companies amalgamate
- MA 15 When credits or debits due but not recorded
- MA 16 When FDWP account ends on qualifying amalgamation
- MA 17 When policyholder credit account ends on qualifying amalgamation

## *Introductory provisions*

### **MA 1 What this Part does**

This Part provides certain rules of general application for recording amounts as credits and debits to a memorandum account.

Defined in this Act: memorandum account

### **MA 2 Memorandum accounts**

#### *Types of account in this Part*

- (1) The following are dealt with in this Part—
  - (a) an imputation credit account (subparts MB and MP):
  - (b) an FDWP account (subparts MC and MP):
  - (c) a conduit tax relief account (subparts MD and MP):
  - (d) a branch equivalent tax account (subparts ME and MP):
  - (e) an ASC account (subpart MF):
  - (f) a policyholder credit account (subparts MJ and MP):
  - (g) a Maori authority credit account (subpart MK).

#### *Role of accounts*

- (2) A memorandum account is an account listed in subsection (1) that provides a record of the credits and debits arising in the account.

#### *Tax year*

- (3) A memorandum account is maintained for a tax year unless a provision in Part M expressly states otherwise.

#### *Tables*

- (4) The credits and debits that arise in a memorandum account are listed in tables in each of the subparts. The tables—
  - (a) state the credits and the debits; and
  - (b) state the credit dates and debit dates when the credits and debits arise; and
  - (c) refer to the section that fully defines the credits and debits, and provides their credit dates and debit dates.

#### *Determination*

- (5) The Commissioner may issue a determination under section 104A of the Tax Administration Act 1994 adjusting the amount of a credit or debit, or a credit date

or debit date recorded in a memorandum account if the Commissioner considers the amount or date is not correct. The determination may be reviewed in challenge proceedings under Part 8A of the Tax Administration Act 1994.

Defined in this Act: ASC account, branch equivalent tax account, Commissioner, conduit tax relief account, FDWP account, imputation credit account, Maori authority credit account, memorandum account, policyholder credit account, tax year

Origin: 2004 No 35 ss ME 1(1), ME 3(1), ME 10(1), (1A)-(1C), ME 15, ME 17(1), ME 20, ME 21(1), ME 22(1), ME 25, ME 26, ME 40, MF 1(1), MF 3(1), MF 6, MF 7(1), MF 11(1), MF 8, MF 12(1), MG 2(1), MG 3, MG 10(1), MG 12, MG 13(1), MG 14(1), MG 15(1), MI 2(1), (4), MI 3, MI 14, MI 17(1), MI 18(1), MJ 1(1), MJ 3(1), MK 1(1), MK 3(1)

### **MA 3 General rules for maintaining memorandum accounts**

#### ***What this section does***

- (1) This section sets out the rules that apply in relation to a memorandum account to a person who is—
  - (a) required to maintain a memorandum account; or
  - (b) entitled to choose to maintain an account.

#### ***Record***

- (2) A person who maintains a memorandum account must record all credits and all debits that arise in the account as at their credit date or debit date. The credits and debits are listed in provisions in the relevant subpart for each type of memorandum account.

#### ***Credit balances***

- (3) The credit balance recorded in a memorandum account during a tax year or income year, as applicable, is the excess of credits over debits.

#### ***Debit balances***

- (4) The debit balance recorded in a memorandum account during a tax year or income year, as applicable, is the excess of debits over credits.

Defined in this Act: amount, memorandum account, tax year

Origin: 2004 No 35 ss ME 2, ME 3(1), MG 10(1), ME 16, ME 17(1), ME 22(1), ME 26, MF 2, MF 3(1), MF 8, MF 12(1), MG 1, MG 3(1), MG 14(1), MG 15(1), MI 1, MI 3, MI 17(1), MI 18(1), MJ 2, MJ 3(1), MK 2, MK 3(1)

#### **MA 4 Certain credits and debits arising only in group accounts**

Certain credits or debits of a consolidated group may arise only in the memorandum account of the group and not in the memorandum account of a group company.

Defined in this Act: consolidated group, memorandum account

Origin: 2004 No 35 ss ME 13, ME 28(4), MF 9, MG 16, MI 19

### *Credits and debits*

#### **MA 5 Credits**

##### *What this section does*

- (1) This section defines the credits that arise under this Part in a memorandum account listed in section MA 2(1).

##### *Imputation credits*

- (2) A credit is an imputation credit if it is an amount described in a row of table M1: imputation credits or table M19: imputation credits of consolidated imputation groups.

##### *FDWP credits*

- (3) A credit is an FDWP credit if it is an amount described in a row of table M3: FDWP credits or table M21: FDWP credits of consolidated FDWP groups.

##### *Conduit tax relief credits*

- (4) A credit is a conduit tax relief credit if it is an amount described in a row of table M5: conduit tax relief credits or table M23: conduit tax relief credits of consolidated groups.

##### *Branch equivalent tax credits*

- (5) A credit is a branch equivalent tax credit if it is an amount described—
- (a) for a BETA company, in a row of table M7: branch equivalent tax credits:
  - (b) for a BETA person, in a row of table M9: person's branch equivalent tax credits:
  - (c) for a consolidated BETA group, in a row of table M25: branch equivalent tax credits of consolidated BETA groups.

##### *ASC account credits*

- (6) A credit is an ASC account credit if it is an amount described in a row of table M11: ASC account credits.

***Policyholder credits***

- (7) A credit is a policyholder credit if it is an amount described—
- (a) for a PCA company, in a row of table M13: policyholder credits:
  - (b) for a PCA person, in a row of table M15: person’s policyholder credits:
  - (c) for a consolidated group with a policyholder credit account, in a row of table M27: policyholder credits of consolidated groups.

***Maori authority credits***

- (8) A credit is a Maori authority credit if it is an amount described in a row of table M17: Maori authority credits.

Defined in this Act: amount, ASC account credit, BETA company, BETA person, branch equivalent tax credit, conduit tax relief credit, consolidated BETA group, consolidated FDWP group, consolidated group, consolidated imputation group, FDWP credit, imputation credit, Maori authority credit, memorandum account, PCA company, PCA person, policyholder credit

**MA 6 Debits**

***What this section does***

- (1) This section defines the debits that arise under this Part in a memorandum account listed in section MA 2(1).

***Imputation debits***

- (2) A debit is an imputation debit if it is an amount described in a row of table M2: imputation debits or table M20: imputation debits of consolidated imputation groups.

***FDWP debits***

- (3) A debit is an FDWP debit if it is an amount described in a row of table M4: FDWP debits or table M22: FDWP debits of consolidated FDWP groups.

***Conduit tax relief debits***

- (4) A debit is a conduit tax relief debit if it is an amount described in a row of table M6: conduit tax relief debits or table M24: conduit tax relief debits of consolidated groups.

***Branch equivalent tax debits***

- (5) A debit is a branch equivalent tax debit if it is an amount described—
- (a) for a BETA company, in a row of table M8: branch equivalent tax debits:
  - (b) for a BETA person, in a row of table M10: person’s branch equivalent tax debits:
  - (c) for a consolidated BETA group, in a row of table M26: branch equivalent tax debits of consolidated BETA groups.

***ASC account debits***

- (6) A debit is an ASC account debit if it is an amount described in a row of table M12: ASC account debits.

***Policyholder debits***

- (7) A debit is a policyholder debit if it is an amount described—
- (a) for a PCA company, in a row of table M13: policyholder debits:
  - (b) for a PCA person, in a row of table M16: person's policyholder debits:
  - (c) for a consolidated group with a policyholder credit account, in a row of table M28: policyholder debits of consolidated groups.

***Maori authority debits***

- (8) A debit is a Maori authority debit if it is an amount described in a row of table M18: Maori authority debits.

Defined in this Act: amount, ASC account debit, BETA company, BETA person, branch equivalent tax debit, conduit tax relief debit, consolidated group, consolidated imputation group, FDWP debit, imputation debit, Maori authority debit, memorandum account, PCA company, PCA person, policyholder debit

***Opening balances***

**MA 7 Opening balances of memorandum accounts**

***Balances carried forward***

- (1) The opening balance of a memorandum account listed in section MA 2(1) at the start of a tax year or income year, as applicable, is the closing balance of the account in the previous tax year or income year, as applicable.

***Credit date***

- (2) The credit date for an opening balance is,—
- (a) for an imputation credit account, the first day of the tax year:
  - (b) for an FDWP account, the first day of the tax year:
  - (c) for conduit tax relief account, the first day of the tax year:
  - (d) for branch equivalent tax account—
    - (i) of a BETA company, the first day of the tax year; or
    - (ii) of a BETA person, the first day of the income year; or
    - (iii) of a consolidated BETA group, the first day of the tax year:
  - (e) for an ASC account, the first day of the tax year:
  - (f) for a policyholder credit account—
    - (i) of a PCA company, the first day of the tax year; or

- (ii) of a PCA person, the first day of the income year; or
- (iii) of a consolidated group, the first day of the tax year:
- (g) for a Maori authority credit account, the first day of the tax year.

***First year***

- (3) If a consolidated group, company, or person starts a memorandum account listed in section MA 2(1) during a tax year, no credit for an opening balance arises in the account. But this subsection does not apply—
- (a) when 2 consolidated imputation groups choose to combine to form, or to join, an imputation group, for which see section MP 3(2) (Changes in consolidated imputation groups):
  - (b) when the companies that are part of an imputation group choose to convert their status to that of a consolidated imputation group, for which see section MP 3(3):
  - (c) to a resident imputation subgroup associated with a trans-Tasman imputation group, for which see section MP 4 (Resident imputation subgroups).

Defined in this Act: company, consolidated BETA account, consolidated group, income year, memorandum account, tax year

Origin: 2004 No 35 ss ME 3(2), ME 10(1A)-(1C), (2), ME 17(2), ME 22(2), ME 26(1), MF 3(2), MF 8(1), MF 12(2), MG 3(2), MG 13(3), MI 3(2), MI 15, MJ 3(2), MJ 4(2), MJ 7(1), MK 3(2)

***Shareholder continuity requirements***

**MA 8 Shareholder continuity requirements for memorandum accounts**

***When this section applies***

- (1) This section applies when a company or a consolidated group maintains a memorandum account listed in section MA 2(1).

***Shareholder continuity requirement***

- (2) An amount that is a credit in the account may be carried forward from a credit date to a later time only if the company or consolidated group who has the credit maintains a 66% continuity of shareholding under subsection (7) from the credit date to the later time. Subsections (4) and (5) override this subsection.

***Continuity***

- (3) A credit is treated as continuing to exist to the extent to which it is not reduced by an earlier or later debit arising in the account.

***Exclusion: ASC accounts and policyholder credit accounts***

- (4) Subsection (2) does not apply to an ASC account or a policyholder credit account.

***Modification: conduit tax relief accounts***

- (5) The general rule in subsection (2) is modified by section MD 16 (CTRA increase in resident shareholding) for conduit tax relief accounts.

***When breach occurs***

- (6) For a memorandum account and for a company or consolidated group which maintains the account at the time of a breach in continuity of shareholding under subsection (7), a debit arises under the relevant section in each subpart only to the extent to which an unused amount of credit remains in the memorandum account.

***Shareholder continuity requirement***

- (7) The shareholder continuity requirement means, while some or all of the credit still exists, a group of persons must continue to hold—
- (a) aggregate minimum voting interests in a company or group of at least 66%; or
  - (b) if a market value circumstance exists for a company or, in the case of a consolidated group, a group company, aggregate minimum market value interests in the company or group of at least 66%.

***Modifications***

- (8) The following rules apply for the purposes of subsection (7):
- (a) the minimum interest referred to in subsection (7)(a) or (b) of a person must be counted if their interests change after the credit arises; and
  - (b) a credit retains its separate character and is not treated as part of a credit described in section MA 7 in a later tax year; and
  - (c) the amount by which a credit is reduced by an earlier or later debit is found by—
    - (i) treating debits as reducing credits in the order in which credits arise; and
    - (ii) counting an amount of a debit only once in the reduction of some or all of a credit; and
    - (iii) applying any relevant terminating modifications set out in section MZ 4 (Terminating modifications to debits for loss of shareholder continuity) for a credit arising before 1 April 1992.

Defined in this Act: amount, branch equivalent tax account, conduit tax relief account, FDWP account, group of persons, imputation account, Maori authority credit account, market value circumstance, market value interest, memorandum account, shareholder, tax year, voting interest

Origin: 2004 No 35 ss ME 5(3), ME 12(1)(h), ME 13(2), (4), MF 4(5), MF 8(4), MG 15(1), MI 5(3)-(7), MI 18(1)(e), (3), (4), MK 5(3), (4)



## ***Treatment of credits and debits on qualifying amalgamation***

### *General provision*

#### **MA 9 General treatment of credits and debits on qualifying amalgamation**

##### ***When this section applies***

- (1) This section applies—
  - (a) on a qualifying amalgamation, in relation to an amalgamated company and a memorandum account, if an amalgamating company ceases to exist on the amalgamation and, at the time of the amalgamation, the company maintained 1 or more memorandum accounts; and
  - (b) for the purposes of section MA 8(7)(b) and (8) in determining at a time after the amalgamation whether continuity of shareholding is maintained for a credit or debit in a memorandum account referred to in section MA 2(1)(a) to (d) and (f).

##### ***Treatment of pre-amalgamation credits and debits***

- (2) A credit or debit recorded in the memorandum account of the amalgamating company before the date of the amalgamation is treated as if it were recorded in the same type of account of the amalgamated company on the date it was recorded in the amalgamating company's account.

##### ***Avoidance provisions***

- (3) For the purpose of determining the credits and debits in the memorandum account of an amalgamating company, sections GC 21, GC 26, and GC 27 (which relate to arrangements to defeat the application of certain provisions) apply, modified as necessary.

Defined in this Act: amalgamating company, amalgamation, consolidated group, memorandum account

Origin: 2004 No 35 ss ME 29(1)(a), MF 16(1)(a), MG 17(1)(a), MI 13

### *When companies amalgamate*

#### **MA 10 Memorandum accounts on qualifying amalgamation**

##### ***When this section applies***

- (1) This section applies on a qualifying amalgamation if, at the time of the amalgamation, an amalgamating company maintains—
  - (a) an imputation credit account:
  - (b) an FDWP account:
  - (c) a conduit tax relief account:
  - (d) a branch equivalent tax account:
  - (e) a policyholder credit account.

##### ***Credits and debits due***

- (2) A credit or a debit due to the amalgamating company but not recorded in its account before the date of amalgamation is recorded in the same type of memorandum account of the amalgamated company. Subsections (3) and (4) override this subsection.

##### ***Exclusion: shareholder continuity rules***

- (3) Subsection (2) does not apply to—
  - (a) a debit for loss of shareholder continuity in an imputation account described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity):
  - (b) a debit for an increase in resident shareholding in a conduit tax relief account described in table M6: conduit tax relief debits, row 8 (increase in resident shareholding):
  - (c) a credit or debit in a branch equivalent tax account described in table M7: branch equivalent tax credits, row 5 (credit for loss of shareholder continuity) and table M8: branch equivalent tax debits, row 5 (debit for loss of shareholder continuity).

##### ***Recording in imputation credit account***

- (4) If the amalgamated company does not maintain a memorandum account referred to in subsection (1)(b), (c), and (e), the credit or debit is recorded in the imputation credit account of the amalgamated company. See sections MA 11 to MA 13.

Defined in this Act: amalgamated company, amalgamating company, imputation credit, imputation credit account, imputation debit, qualifying amalgamation

Origin: 2004 No 35 s ME 29(1), MF 16(1), MG 17(1), MI 13

## **MA 11 FDWP account on qualifying amalgamation**

### ***When this section applies***

- (1) This section applies on a qualifying amalgamation if—
- (a) an amalgamating company ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the company maintained an FDWP account; and
  - (c) the amalgamated company does not maintain an FDWP account.

### ***Credits and debits due***

- (2) A credit or a debit due to the amalgamating company but not recorded before the date of amalgamation is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
- (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation);  
or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, FDWP account, FDWP credit, FDWP debit, imputation credit, imputation credit account, imputation debit, qualifying amalgamation

Origin: 2004 No 35 s MG 17(1)

## **MA 12 Conduit tax relief account on qualifying amalgamation**

### ***When this section applies***

- (1) This section applies on a qualifying amalgamation if—
- (a) an amalgamating company ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the company maintains a conduit tax relief account; and
  - (c) the amalgamated company does not maintain a conduit tax relief account.

### ***Credits and debits due***

- (2) A credit or a debit due to the amalgamating company but not recorded before the date of amalgamation, is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
- (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation);  
or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, conduit tax relief account, conduit tax relief company, conduit tax relief debits, FDWP, imputation credit, imputation credit account, imputation debit, qualifying amalgamation, resident

Origin: 2004 No 35 s MI 13(6)

### **MA 13 Policyholder credit account on qualifying amalgamation**

#### *When this section applies*

- (1) This section applies on a qualifying amalgamation if—
- (a) an amalgamating company ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the company maintains a policyholder credit account; and
  - (c) the amalgamated company does not maintain a policyholder credit account.

#### *Credits and debits due*

- (2) A credit or a debit due to the amalgamating company but not recorded in the account before the date of amalgamation, is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
- (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation); or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, imputation credit, imputation credit account, imputation debit, policyholder credit account, policyholder credit account company, qualifying amalgamation

Origin: 2004 No 35 s ME 29(1)

### *Amalgamation of companies in consolidated groups*

### **MA 14 Continuity of shareholding when group companies amalgamate**

#### *What this section does*

- (1) This section and sections MA 15 to MA 17 apply when all the companies in a consolidated group or consolidated imputation group amalgamate on a qualifying amalgamation, and the amalgamation results in—
- (a) the end of the group's existence; and
  - (b) the formation of an amalgamated company.

***Other company***

- (2) The amalgamation may include a company that is not part of the consolidated group or consolidated imputation group.

***Continuity of shareholding: credits and debits***

- (3) Subsection (4) applies for the purposes of section MA 8(7)(b) and (8) in determining at a time after the qualifying amalgamation whether continuity of shareholding is maintained for a credit or debit in a memorandum account referred to in section MA 2(1)(a), (b), (d) and (f).

***Treatment of pre-amalgamation credits and debits***

- (4) A credit or debit recorded in the memorandum account of the consolidated group before the date of the amalgamation is treated as if it were recorded in the same type of account of the amalgamated company on the date it was recorded in the group's account. For this purpose, voting interests in the group from that time are treated as if they were the only voting interests in the amalgamated company.

***Avoidance provisions***

- (5) For the purposes of determining the credits and debits in the memorandum account of a consolidated group, sections GC 21, CG 26, and GC 27 (which relate to arrangements to defeat the application of certain provisions) apply, modified as necessary.

Defined in this Act: amalgamated company, consolidated group, consolidated imputation group, memorandum account, qualifying amalgamation, shareholder, voting interest

Origin: 2004 No 35 s ME 29(2)(a), MF 16(2)(a), MG 17(2)(a)

**MA 15 When credits or debits due but not recorded**

***When this section applies***

- (1) This section applies on a qualifying amalgamation described in section MA 14 when, at the time of the amalgamation, a consolidated group maintains—
- (a) an imputation credit account:
  - (b) an FDWP account:
  - (c) a branch equivalent tax account:
  - (d) a policyholder credit account.

***Credits and debits due***

- (2) A credit or a debit due to the consolidated group but not recorded in its account before the date of amalgamation is recorded in the same type of memorandum account of the amalgamated company. Subsections (3) and (4) override this subsection.

***Exclusion: shareholder continuity rules***

- (3) Subsection (2) does not apply to—
- (a) a debit for loss of shareholder continuity in an imputation account described in table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity);
  - (b) a debit for an increase in resident shareholding in a conduit tax relief account described in table M24: conduit tax relief debits of consolidated groups, row 6 (increase in resident shareholding);
  - (c) a credit or debit in a branch equivalent tax account described in table M25: branch equivalent tax credits, row 5 (credit for loss of shareholder continuity) and table M26: branch equivalent tax debits, row 5 (debit for loss of shareholder continuity).

***Recording in imputation credit account***

- (4) If the amalgamated company does not maintain a memorandum account referred to in subsection (1)(b) or (d), the credit or debit is recorded in the imputation credit account of the amalgamated company. See sections MA 16 and MA 17.

Defined in this Act: amalgamated company, amalgamating company, imputation credit, imputation credit account, imputation debit, qualifying amalgamation, shareholder, voting interest

Origin: 2004 No 35 s ME 29(2)(b), MF 16(2)(B), MG 17(2)(b)

**MA 16 When FDWP account ends on qualifying amalgamation**

***When this section applies***

- (1) This section applies on a qualifying amalgamation described in section MA 14 if—
- (a) a consolidated group ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the group maintained an FDWP account; and
  - (c) the amalgamated company does not maintain an FDWP account.

***Credits and debits due***

- (2) A credit or a debit due to the group but not recorded before the date of amalgamation is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
- (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation);  
or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, FDWP account, FDWP debit, imputation credit, imputation credit account, imputation debit, qualifying amalgamation, shareholder

Origin: 2004 No 35 s MF 17(2)(b)

## **MA 17 When policyholder credit account ends on qualifying amalgamation**

### ***When this section applies***

- (1) This section applies on a qualifying amalgamation described in section MA 14 if,—
- (a) a consolidated group ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the group maintained a policyholder credit account; and
  - (c) the amalgamated company does not maintain a policyholder credit account.

### ***No policyholder credit account***

- (2) A credit or a debit due to the group but not recorded before the date of amalgamation is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
- (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation);  
or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, imputation credit, imputation credit account, imputation debit, policyholder credit account, qualifying amalgamation

Origin: 2004 No 35 s ME 29(2)

## **Subpart MB—Imputation credit accounts**

### **Contents**

#### *Introductory provisions*

- MB 1 General rules for companies with imputation credit accounts
- MB 2 Australian companies with imputation credit accounts
- MB 3 Imputation credit accounts

#### *Imputation credits*

Table M1: imputation credits

- MB 4 ICA payment of tax
- MB 5 ICA deposit in tax pooling account
- MB 6 ICA transfer from tax pooling account
- MB 7 ICA payment of further income tax
- MB 8 ICA deduction of resident withholding tax
- MB 9 ICA derivation of dividend with imputation credit
- MB 10 ICA derivation of dividend with FDWP credit
- MB 11 ICA payment of FDWP
- MB 12 ICA transfer from FDWP account
- MB 13 ICA debit balance on leaving wholly-owned group
- MB 14 ICA payment of tax on leaving wholly-owned group
- MB 15 ICA payment of tax on joining wholly-owned group
- MB 16 ICA attribution for personal services
- MB 17 ICA transfer from policyholder credit account
- MB 18 ICA transfer from ASC account
- MB 19 ICA transfer to master fund
- MB 20 ICA distribution with Maori authority credit
- MB 21 ICA balance of Maori authority credit account
- MB 22 ICA credit on qualifying amalgamation
- MB 23 ICA reversal of tax advantage arrangement
- MB 24 ICA elimination of double debit
- MB 25 ICA deduction of non-resident withholding tax



- MB 26 ICA deduction from withholding payment
- MB 27 ICA payment of schedular income tax

***Imputation debits***

Table M2: imputation debits

- MB 28 ICA payment of dividend
- MB 29 ICA allocation of provisional tax
- MB 30 ICA refund of income tax
- MB 31 ICA amount applied to pay other taxes
- MB 32 ICA refund from tax pooling account
- MB 33 ICA transfer within tax pooling account
- MB 34 ICA refund of FDWP
- MB 35 ICA refund of tax credit
- MB 36 ICA overpayment of FDWP
- MB 37 ICA transfer from net foreign attributed income
- MB 38 ICA attribution for personal services
- MB 39 ICA debit for loss of shareholder continuity
- MB 40 ICA on-market cancellation
- MB 41 ICA breach of imputation ratio
- MB 42 ICA debit on leaving wholly-owned group
- MB 43 ICA redemption debit
- MB 44 ICA transfer to member fund
- MB 45 ICA transfer to policyholder credit account
- MB 46 ICA credit balance when Maori authority credit account starts
- MB 47 ICA imputation credit of consolidated imputation group
- MB 48 ICA debit on qualifying amalgamation
- MB 49 ICA tax advantage arrangement
- MB 50 ICA retrospective imputation credit
- MB 51 ICA final balance
- MB 52 ICA refund of non-resident withholding tax
- MB 53 ICA refund of withholding payment
- MB 54 ICA refund of schedular income tax

***Imputation credits attached to dividends***

- MB 55 Imputation credits attached to dividends
- MB 56 ICA benchmark dividend rules

MB 57 Retrospective attachment of imputation credits

***Further income tax***

- MB 58 Further income tax for ICA closing debit balance
- MB 59 Further income tax when company stops being ICA company
- MB 60 Reduction of further income tax
- MB 61 Income tax paid satisfying liability for further income tax
- MB 62 Further income tax paid satisfying liability for income tax
- MB 63 Application of other provisions

***Additional income tax***

- MB 64 Additional income tax on leaving wholly-owned group
- MB 65 Additional income tax on joining wholly-owned group

***Distributions of statutory producer boards and co-operative companies***

- MB 66 Statutory producer boards attaching imputation credits to cash distributions
- MB 67 Statutory producer boards attaching imputation credits to notional distributions
- MB 68 Statutory producer boards' notional distributions that are dividends
- MB 69 Statutory producer boards attaching FDWP credits
- MB 70 When and how statutory producer board makes election
- MB 71 Co-operative companies attaching imputation credits to cash distributions
- MB 72 Co-operative companies attaching imputation credits to notional distributions
- MB 73 Co-operative companies' notional distributions that are dividends
- MB 74 Co-operative companies attaching FDWP credits
- MB 75 When and how co-operative company makes election

## *Introductory provisions*

### **MB 1 General rules for companies with imputation credit accounts**

#### *New Zealand resident*

- (1) A company that is resident in New Zealand (**ICA company**) must establish and maintain an imputation credit account for a tax year. Subsection (3) overrides this subsection.

#### *New Zealand and Australian resident*

- (2) A company that is resident in both New Zealand and Australia may choose to be an ICA company for a tax year if it meets the requirements in section MB 2.

#### *Exclusions*

- (3) A company that is resident in New Zealand is excluded from being an ICA company if it is—
- (a) a company that—
    - (i) is also resident in another country; or
    - (ii) is acting in the capacity of trustee of a group investment fund to which paragraph (c) of the definition of **company** in section OB 1 (Definitions) applies; or
    - (iii) has a constitution that prohibits a distribution to a shareholder; or
    - (iv) derives only exempt income other than income exempt under sections CW 9 to CW 11 (which relates to income from equity); or
    - (v) has income not completely subject to tax because of the application of a double tax agreement for whose purposes the company is treated as not being resident in New Zealand; or
  - (b) a Maori authority; or
  - (c) a local authority; or
  - (d) a Crown Research Institute; or
  - (e) a subsidiary of the Accident Compensation Corporation affected by section 24 of the Injury Prevention, Rehabilitation, and Compensation Act 2001, or section 334(1) of the Accident Insurance Act 1998.

Defined in this Act: Australian ICA company, company, Crown Research Institute, double tax agreement, exempt income, group investment fund, ICA company, imputation credit account, income, local authority, Maori authority, New Zealand, resident in Australia, resident in New Zealand, shareholder, tax year, trustee

## **MB 2 Australian companies with imputation credit accounts**

### ***When this section applies***

- (1) This section applies when a company that is resident in both New Zealand and Australia chooses under section MB 1(2) to be an Australian ICA company.

### ***Ineligibility***

- (2) Despite meeting the residency requirements, a company is not eligible to make an election referred to in subsection (1) if—
- (a) the company—
    - (i) is 1 referred to in section MB 1(3)(a)(ii) to (iv), and (c) to (e); or
    - (ii) is treated by a double tax agreement as resident in a country other than New Zealand or Australia for a taxation purpose in New Zealand or Australia; or
  - (b) an earlier election has been revoked by the Commissioner under subsection (7)(b), and the company has not shown the Commissioner that it has taken adequate steps to prevent the grounds of revocation occurring again.

### ***Election, and when status starts***

- (3) The election is made by notifying the Commissioner, and the company must maintain an imputation credit account from—
- (a) the first day of the tax year in which the Commissioner is notified; or
  - (b) if section MB 55 applies, 30 days after the date on which Commissioner receives the notice.

### ***Joint and several liability***

- (4) A company that is included in the same wholly-owned group of companies as an Australian ICA company may have joint and several liability with the Australian ICA company for further income tax, civil penalties, and interest under Part 7 of the Tax Administration Act 1994 imposed on the Australian ICA company for a breach by the company of the imputation rules.

### ***Exclusion***

- (5) Despite subsection (4), no joint and several liability arises if the other company is prohibited by an independent regulatory body from being subject to the liability.

### ***Dividend in Australian currency***

- (6) An Australian ICA company that pays a dividend in Australian currency must make a currency conversion under section MB 55(7).

### ***How status ends***

- (7) A company ends its status as an Australian ICA company if—
- (a) the company revokes the election by notifying the Commissioner; or
  - (b) the Commissioner gives the company notice revoking the election.

***When status ends***

- (8) The company ends its status as an Australian ICA company—
- (a) from the day on which the relevant circumstance of ineligibility in subsection (2) applies; or
  - (b) unless paragraph (c) applies, from the last day of the tax year in which the company or the Commissioner revokes the election; or
  - (c) for the purposes of section MB 55,—
    - (i) when the company notifies the Commissioner, on the date on which the Commissioner receives the notice; or
    - (ii) on the date set out in the Commissioner’s notice.

***Outstanding obligations***

- (9) A company that stops being an Australian ICA company for a tax year must nevertheless satisfy all obligations that the company had as an Australian ICA company.

Defined in this Act: Australian ICA company, Commissioner, company, dividend, double tax agreement, further income tax, imputation credit account, imputation rules, income, New Zealand, notice, notify, pay, resident in Australia, resident in New Zealand, tax year, wholly-owned group

Origin: 2004 No 35 s ME 1A

**MB 3 Imputation credit accounts**

***General rules***

- (1) The general rules on memorandum accounts set out in sections MA 2 and MA 3 (which relate to the treatment of memorandum accounts) apply to an imputation credit account of an ICA company.

***Consolidated imputation groups***

- (2) Under section MP 2 (When credits and debits arise only in group accounts), certain credits and debits do not arise in an ICA company’s memorandum account if the company is part of a consolidated imputation group.

Defined in this Act: consolidated imputation group, ICA company, imputation credit account, memorandum account, tax year

Origin: 2004 No 35 s ME 13(1)

## *Imputation credits*

**Table M1: imputation credits**

Row	Imputation credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Payment of tax</i>		
	Provisional tax and income tax paid	day of payment	section MB 4
3	<i>Deposit in tax pooling account</i>		
	A payment into a tax pooling account	day of payment	section MB 5
4	<i>Transfer from tax pooling account</i>		
	A transfer from a tax pooling account	day of credit	section MB 6
5	<i>Payment of further income tax</i>		
	Further income tax paid	day of payment	section MB 7
6	<i>Deduction of resident withholding tax</i>		
	A deduction of resident withholding tax	day of deduction	section MB 8
7	<i>Derivation of dividend with imputation credit</i>		
	An imputation credit attached to a dividend derived	day the dividend is paid	section MB 9
8	<i>Derivation of dividend with FDWP credit</i>		
	An FDWP credit attached to a dividend derived when not an FDWP company	day the dividend is paid	section MB 10
9	<i>Payment of FDWP</i>		
	FDWP paid when not an FDWP company	day of payment	section MB 11
10	<i>Transfer from FDWP account</i>		
	A transfer from an FDWP account	day of transfer	section MB 12
11	<i>Debit balance on leaving wholly-owned group</i>		
	A transfer for a debit balance when a company leaves a wholly-owned group	day the company leaves the group	section MB 13
12	<i>Payment of tax on leaving wholly-owned group</i>		
	Additional income tax payable when a company leaves a wholly-owned group	day of payment	section MB 14
13	<i>Payment of tax on joining wholly-owned group</i>		
	Additional income tax when a company joins a wholly-owned group	day of payment	section MB 15
14	<i>Attribution for personal services</i>		
	An attribution for personal services if a company is not a qualifying company	31 March	section MB 16

15	<i>Transfer from policyholder credit account</i>		
	A transfer from a policyholder credit account	day of transfer	section MB 17
16	<i>Transfer from ASC account</i>		
	A transfer from an ASC account	day of transfer	section MB 18
17	<i>Transfer to master fund</i>		
	A transfer to a master fund by a company	day of transfer	section MB 19
18	<i>Distribution with Maori authority credit</i>		
	A Maori authority credit attached to a distribution received	day of distribution	section MB 20
19	<i>Balance of Maori authority credit account</i>		
	A transfer of balance of Maori authority credit account	day of transfer	section MB 21
20	<i>Credit on qualifying amalgamation</i>		
	An imputation credit, FDWP credit, or policyholder credit on a qualifying amalgamation	credit date in account of the amalgamating company	section MB 22
21	<i>Reversal of tax advantage arrangement</i>		
	The reversal of a debit for a tax advantage arrangement	debit date of the debit	section MB 23
22	<i>Elimination of double debit</i>		
	Eliminating a debit for loss of shareholder continuity cancelling a tax pooling account deposit that is refunded or credited	day of refund or credit	section MB 24
23	<i>Deduction of non-resident withholding tax</i>		
	Non-resident withholding tax deducted by an Australian ICA company	day of deduction	section MB 25
24	<i>Deduction from withholding payment</i>		
	A tax deduction from a withholding payment paid to an Australian ICA company	day of deduction	section MB 26
25	<i>Payment of schedular income tax</i>		
	Schedular income tax paid by an Australian ICA company	day of payment	section MB 27

**How to use this table**

Each row of the table describes—

- (a) the imputation credits that may arise in the imputation credit account of an ICA company during a tax year; and
- (b) the credit date when the credit arises.

A more detailed description of the imputation credits is contained in the section noted in the last column.

#### **MB 4 ICA payment of tax**

##### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 2 (payment of tax) for an amount of income tax or provisional tax paid. Subsection (2) overrides this subsection.

##### ***No credit***

- (2) An ICA company does not have an imputation credit for an amount of—
- (a) income tax paid as a trustee, unless paid on category A income as described in paragraph (c) of the definition of **company** in section OB 1 (Definitions); or
  - (b) a transfer from a tax pooling account to a tax account with the Commissioner; or
  - (c) income tax paid on income derived when the company is not an ICA company; or
  - (d) income tax paid by a credit of tax under subpart LE (Non-resident investors); or
  - (e) further income tax applied under section MB 62 to pay income tax or provisional tax; or
  - (f) income tax paid under section LB 2(2) (Credit of tax for imputation credit) by crediting an imputation credit; or
  - (g) income tax paid under section LD 8(1) (Credit of tax for dividend withholding payment credit in hands of shareholder) by crediting an FDWP credit; or
  - (h) income tax paid under section ME 7 (BETA payment of income tax) by a credit to the company's branch equivalent tax account; or
  - (i) income tax paid by a life insurer subject to section EY 47 (Non-resident life insurers with life insurance policies in New Zealand) to satisfy its policyholder base income tax liability.

##### ***Credit date***

- (3) The credit date is the day the tax is paid.

Defined in this Act: amount, branch equivalent tax account, category A income, Commissioner, company, FDWP credit, further income tax, ICA company, imputation credit, imputation credit account, income, income tax, life insurer, pay, policyholder base income tax liability, provisional tax, tax year, trustee

Origin: 2004 No 35 s ME 4(1)(a), (2)(a)



### **MB 5 ICA deposit in tax pooling account**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 3 (deposit in tax pooling account) for an amount provided by it and paid by an intermediary into a tax pooling account.

#### ***Credit date***

- (2) The credit date is the day the amount is deposited.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, intermediary, pay

Origin: 2004 No 35 s ME 4(1)(ac), (2)(ac)

### **MB 6 ICA transfer from tax pooling account**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 4 (transfer from tax pooling account) for an amount that represents an entitlement to funds held in a tax pooling account and transferred by an intermediary.

#### ***Credit date***

- (2) The credit date is—
  - (a) the effective date under section MBA 6 (Transfers from tax pooling account) of the Income Tax Act 2004 if the amount is transferred to the company's tax account with the Commissioner; or
  - (b) the day the refund is made.

Defined in this Act: amount, Commissioner, ICA company, imputation credit, intermediary

Origin: 2004 No 35 s ME 4(1)(ad), (2)(ad)

### **MB 7 ICA payment of further income tax**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 5 (payment of further income tax) for an amount of further income tax paid under section MB 58 or MB 59.

#### ***Credit date***

- (2) The debit date is the day the further income tax is paid.

Defined in this Act: amount, further income tax, ICA company, imputation credit, pay

Origin: 2004 No 35 s ME 4(1)(c), (2)(a)

### **MB 8 ICA deduction of resident withholding tax**

#### *Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 6 (deduction of resident withholding tax) for the amount of a deduction of resident withholding tax that is treated under section NF 12(b) (Amount of resident withholding tax deduction deemed to have been received) as derived by the company.

#### *Credit date*

- (2) The credit date is the day the resident withholding tax is deducted from resident withholding income.

Defined in this Act: amount, deduction, ICA company, imputation credit, resident withholding income, resident withholding tax

Origin: 2004 No 35 s ME 4(1)(i), (2)(g)

### **MB 9 ICA derivation of dividend with imputation credit**

#### *Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 7 (derivation of dividend with imputation credit) for the amount of an imputation credit attached to a dividend derived by the company.

#### *Credit date*

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, dividend, ICA company, imputation credit, pay

Origin: 2004 No 35 s ME 4(1)(d), (2)(c)

### **MB 10 ICA derivation of dividend with FDWP credit**

#### *Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 8 (derivation of dividend with FDWP credit) for the amount of an FDWP credit attached to a dividend derived by the company when it is not an FDWP company.

***Credit date***

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, dividend, FDWP company, FDWP credit, ICA company, imputation credit, pay

Origin: 2004 No 35 s ME 4(1)(e), (2)(c)

**MB 11 ICA payment of FDWP**

***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 9 (payment of FDWP) for an amount of FDWP paid when the company is not an FDWP company. Subsection (2) overrides this subsection.

***No credit***

- (2) No credit arises for a liability for FDWP that is satisfied under section NH 3(2) or (3) (Payment and recovery of dividend withholding payment) by the reduction of a net loss.

***Credit date***

- (3) The credit date is the day the FDWP is paid.

Defined in this Act: amount, FDWP, FDWP company, ICA company, imputation credit, net loss, pay

Origin: 2004 No 35 s ME 4(1)(f), (2)(d)

**MB 12 ICA transfer from FDWP account**

***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 10 (transfer from FDWP account) for an amount equal to the amount of an FDWP debit described in table M4: FDWP debits, row 6 (transfer to imputation credit account) transferred from its FDWP account.

***Credit date***

- (2) The credit date is the day the amount is transferred.

Defined in this Act: amount, FDWP account, ICA company, imputation credit

Origin: 2004 No 35 s ME 4(1)(g), (2)(e)

### **MB 13 ICA debit balance on leaving wholly-owned group**

#### ***Election***

- (1) If the requirements set out in subsections (2) and (4) are met, an ICA company may choose to transfer a debit balance in its imputation credit account when the company stops being part of a wholly-owned group of companies.

#### ***Eligibility***

- (2) The company may make an election under subsection (1) if all of the following apply at a particular time:
  - (a) the company is or has recently been part of a wholly-owned group of companies; and
  - (b) the company is no longer part of the group, or will shortly no longer be part of the group; and
  - (c) the company has a debit balance in its imputation credit account; and
  - (d) the group has available net losses of more than \$1,000,000 for the income year before the particular time.

#### ***Credit and debit***

- (3) The company may choose that an amount of no more than the debit balance is—
  - (a) an imputation credit described in table M1: imputation credits, row 11 (debit balance on leaving wholly-owned group) in its imputation credit account; and
  - (b) an imputation debit described in table M2: imputation debits, row 17 (debit balance on leaving wholly-owned group), and referred to in section MB 44, in the imputation credit account of another company in the group after the date on which the company stops being part of the group.

#### ***Form and timing of election***

- (4) The company must make the election—
  - (a) in a form that the Commissioner may require; and
  - (b) with a notice of agreement from the group company in whose account the imputation debit arises under subsection (3)(b); and
  - (c) before the company stops being part of the group.

#### ***Further time***

- (5) For the purposes of subsection (4)(b), the Commissioner may allow further time in which to provide the notice if the company did not have sufficient information at the time it stops being part of the group.

#### ***Credit date***

- (6) The credit date is the day the company leaves the wholly-owned group.

Defined in this Act: available net loss, Commissioner, company, ICA company, imputation credit, imputation credit account, imputation debit, income year, notice, wholly-owned group

Origin: 2004 No 35 ss ME 4(1)(cb), (2)(bb), ME 9B(1), (2)

#### **MB 14 ICA payment of tax on leaving wholly-owned group**

##### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 12 (payment of tax on leaving wholly-owned group) for an amount of additional income tax for which it is liable under section MB 64.

##### ***Credit date***

- (2) The credit date is the day the additional income tax is paid to the Commissioner.

Defined in this Act: additional income tax, amount, Commissioner, ICA company, imputation credit, pay, wholly-owned group

Origin: 2004 No 35 s ME 4(1)(cc), (2)(bc)

#### **MB 15 ICA payment of tax on joining wholly-owned group**

##### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 13 (payment of tax on joining wholly-owned group) for an amount of additional income tax for which it is liable under section MB 65.

##### ***Credit date***

- (2) The credit date is the day the additional income tax is paid to the Commissioner.

Defined in this Act: additional income tax, amount, Commissioner, ICA company, imputation credit, pay, wholly-owned group

Origin: 2004 No 35 s ME 4(1)(cd), (2)(bd)

#### **MB 16 ICA attribution for personal services**

##### ***Credit***

- (1) An ICA company that is not a qualifying company has an imputation credit as described in table M1: imputation credits, row 14 (attribution for personal services) for an amount equal to 49.25% of the personal services attribution under section GC 14D (Attribution rule: calculation).

*Credit date*

- (2) The credit date is the last day of the tax year for which the attribution is made.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, qualifying company, tax year

Origin: 2004 No 35 s ME 4(1)(ab), (2)(ab)

**MB 17 ICA transfer from policyholder credit account**

*Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 15 (transfer from policyholder credit account) for an amount equal to the amount of a debit described in table M14: policyholder debits, row 3 (transfer to imputation credit account) for a transfer of a credit balance from its policyholder credit account.

*Credit date*

- (2) The credit date is the day the amount is transferred.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, policyholder credit account

Origin: 2004 No 35 s ME 4(1)(j), (2)(h)

**MB 18 ICA transfer from ASC account**

*Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 16 (transfer from ASC account) for the transfer of an amount from its ASC account. The amount is calculated using the formula—

$$\text{credit balance} \quad \times \quad \text{maximum imputation ratio.}$$

*Definition of items in formula*

- (2) In the formula,—
- (a) **credit balance** is the amount of the credit balance used by the company under section MA 7 (Opening balances of memorandum accounts) to satisfy a debit balance in an imputation credit account:
- (b) **maximum imputation ratio** is the result of the formula set out in section MB 55(5) but modified as if, in the item **tax rate**, the words “to which the election made under section MF 6 (ASCA transfer to imputation credit account) relates” were read for “in which the dividend is paid”.

*Credit date*

- (3) The credit date is the day the amount is transferred.

Defined in this Act: amount, ASC account, dividend, ICA company, imputation credit, imputation credit account, imputation ratio

Origin: 2004 No 35 s ME 4(1)(da), (2)(ca)

**MB 19 ICA transfer to master fund**

*Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 17 (transfer to master fund) for the transfer of an amount to a master fund. The amount is calculated using the formula—

expenditure transferred    x    tax rate.

*Definition of items in formula*

- (2) In the formula,—
- (a) **expenditure transferred** is the amount of expenditure transferred under sections DV 5 to DV 7 (which relate to the expenditure of investment funds) to the company as a master fund:
- (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax).

*Credit date*

- (3) The credit date is the day the amount is transferred.

Defined in this Act: amount, basic rate, ICA company, imputation credit, imputation credit account, income tax, master fund

Origin: 2004 No 35 s ME 4(1)(aab), (2)(aab)

**MB 20 ICA distribution with Maori authority credit**

*Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 18 (distribution with Maori authority credit) for the amount of a Maori authority credit attached to a distribution received by the company.

*Credit date*

- (2) The credit date is the day the distribution is paid.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, Maori authority credit

Origin: 2004 No 35 s ME 4(1)(ea), (2)(cb)

## **MB 21 ICA balance of Maori authority credit account**

### *Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 19 (balance of Maori authority credit account) for an amount equal to the amount of a Maori authority debit described in table M18: Maori authority debits, row 10 (final balance) when the Maori authority stops being a Maori authority.

### *Credit date*

- (2) The credit date is the same as the debit date recorded for the debit under section MK 18 (MACA final balance).

Defined in this Act: amount, ICA company, imputation credit, Maori authority, Maori authority credit account

Origin: 2004 No 35 s ME 4(1)(k), (2)(j)

## **MB 22 ICA credit on qualifying amalgamation**

### *Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 20 (credit on qualifying amalgamation) for the amount of a credit that arises on or after a qualifying amalgamation in the imputation credit account of the amalgamated company under 1 of the sections listed in subsection (2).

### *Sections*

- (2) The sections are—
  - (a) section MA 10 (Memorandum accounts on qualifying amalgamation) for imputation credits in the imputation credit account of an amalgamating company;
  - (b) section MA 14 (Continuity of shareholding when group companies amalgamate) for imputation credits in the imputation credit account of a consolidated imputation group that ceases to exist on the amalgamation;
  - (c) section MA 11 (FDWP account on qualifying amalgamation) for an FDWP credit in the FDWP account of an amalgamating company because the amalgamated company does not maintain an FDWP account:



- (d) section MA 16 (When FDWP account ends on qualifying amalgamation) for an FDWP credit in the FDWP account of a consolidated group because the amalgamated company does not maintain an FDWP account:
- (e) section MA 12 (Conduit tax relief account on qualifying amalgamation) for the conduit tax relief credits in the conduit tax relief account of an amalgamating company because the amalgamated company does not maintain a conduit tax relief account:
- (f) section MA 13 (Policyholder credit account on qualifying amalgamation) for a policyholder credit in the policyholder credit account of an amalgamating company because the amalgamated company does not maintain a policyholder credit account:
- (g) section MA 17 (When policyholder credit account ends on qualifying amalgamation) for the policyholder credits in the policyholder credit account of a consolidated group because the company does not maintain a policyholder credit account.

Defined in this Act: amalgamated company, amalgamating company, amount, conduit tax relief account, conduit tax relief credit, consolidated group, consolidated imputation group, FDWP account, FDWP credit, ICA company, imputation credit, imputation credit account, policyholder credit, policyholder credit account, qualifying amalgamation

Origin: 2004 No 35 ss ME 29, MG 17, MI 13

### **MB 23 ICA reversal of tax advantage arrangement**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 21 (reversal of tax advantage arrangement) for an amount equal to the amount of a debit in the company's imputation credit account described in table M2: imputation debits, row 24 (tax advantage arrangement).

#### ***Credit date***

- (2) The credit date is the same as the debit date of the debit under section MB 49.

Defined in this Act: amount, arrangement, ICA company, imputation credit, imputation credit account, imputation debit, tax advantage

Origin: 2004 No 35 s ME 4(1)(h), (2)(f)

## **MB 24 ICA elimination of double debit**

### ***When this section applies***

- (1) This section applies when an imputation debit in an ICA company's imputation credit account described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) has the effect of cancelling an imputation credit described in table M1: imputation credits, row 3 (deposit in tax pooling account).

### ***Credit***

- (2) The company has an imputation credit as described in table M1: imputation credits, row 22 (elimination of double debit) for an amount equal to the amount of the debit referred to in subsection (1), and either—
  - (a) another debit described in table M2: imputation debits, row 6 (refund from tax pooling account) arises for a refund of the amount of the deposit on a debit date after the debit date for the debit for loss of shareholder continuity; or
  - (b) the deposit is taken into account under section MBA 6 (Transfers from tax pooling account) of the Income Tax Act 2004 in determining the balance of the company's tax account with the Commissioner after the debit date for the debit for loss of shareholder continuity.

### ***Credit date***

- (3) The credit date is the day—
  - (a) the deposit is refunded; or
  - (b) the credit arises in the company's tax account with the Commissioner.

Defined in this Act: amount, Commissioner, ICA company, imputation credit, imputation credit account, imputation debit, shareholder

Origin: 2004 No 35 s ME 4(1A), (2A)

## **MB 25 ICA deduction of non-resident withholding tax**

### ***Credit***

- (1) An Australian ICA company has an imputation credit as described in table M1: imputation credits, row 23 (deduction of non-resident withholding tax) for the amount of a payment of non-resident withholding tax on non-resident withholding income derived by the company.

### ***Credit date***

- (2) The credit date is the day the non-resident withholding income is paid.

Defined in this Act: amount, Australian ICA company, imputation credit, imputation credit account, non-resident withholding income, non-resident withholding tax, pay

Origin: 2004 No 35 s ME 4(1B)(a), (2B)(a)

### **MB 26 ICA deduction from withholding payment**

#### *Credit*

- (1) An Australian ICA company has an imputation credit as described in table M1: imputation credits, row 24 (deduction from withholding payment) for the amount of a tax deduction from a withholding payment paid to the company as a non-resident contractor.

#### *Credit date*

- (2) The credit date is the day the withholding payment is paid.

Defined in this Act: amount, Australian ICA company, imputation credit, non-resident, pay, tax deduction, withholding payment

Origin: 2004 No 35 s ME 4(1B)(b), (2B)(b)

### **MB 27 ICA payment of schedular income tax**

#### *Credit*

- (1) An Australian ICA company has an imputation credit as described in table M1: imputation credits, row 25 (payment of schedular income tax) for a payment by the company of schedular income tax for income derived under section FC 13, FC 14, FC 18, or FC 21 (which relate to non-resident insurers, shippers, and film renters).

#### *Credit date*

- (2) The credit date is the day the schedular income tax is paid.

Defined in this Act: Australian ICA company, company, imputation credit, income, pay, schedular income

Origin: 2004 No 35 s ME 4(1B)(c), (2B)(c)

### *Imputation debits*

**Table M2: imputation debits**

<b>Row</b>	<b>Imputation debit</b>	<b>Debit date</b>	<b>Further defined</b>
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of dividend</i>		
	An imputation credit attached to dividend paid	day of payment	section MB 28
3	<i>Allocation of provisional tax</i>		
	An allocation of provisional tax	day of notice of allocation	section MB 29
4	<i>Refund of income tax</i>		
	A refund of income tax	day of refund	section MB 30
5	<i>Amount applied to pay other taxes</i>		
	Overpaid income tax applied to meet another tax liability	day of application	section MB 31
6	<i>Refund from tax pooling account</i>		
	A refund from a tax pooling account	day of refund	section MB 32
7	<i>Transfer within tax pooling account</i>		
	A transfer of entitlement to another person in a tax pooling account	set out in section MB 33	section MB 33
8	<i>Refund of FDWP</i>		
	A refund of FDWP when not an FDWP company	day of refund	section MB 34
9	<i>Refund of tax credit</i>		
	A refund of a tax credit	day of refund	section MB 35
10	<i>Overpayment of FDWP</i>		
	Overpaid FDWP applied to satisfy a liability when not an FDWP company	day of application	section MB 36
11	<i>Overpayment of income tax or FDWP</i>		
	Overpaid income tax or FDWP applied to satisfy pre-imputation income tax when not an FDWP company	day of application	section MZ 3

Part M—Memorandum accounts  
Subpart MB—Imputation credit accounts  
53

12	<i>Transfer for net foreign attributed income</i>		
	A transfer to an FDWP account on account of net foreign income for an income year	31 March or when tax return filed	section MB 37
13	<i>Attribution for personal services</i>		
	A attribution for personal services	31 March	section MB 38
14	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity	day of loss of continuity	section MB 39
15	<i>On-market cancellation</i>		
	A debit for on-market cancellation	day of acquisition	section MB 40
16	<i>Breach of imputation ratio</i>		
	A debit for breach of imputation ratio	31 March	section MB 41
17	<i>Debit balance on leaving wholly-owned group</i>		
	A transfer for a debit balance when another company leaves a wholly-owned group	day the company leaves the group	section MB 42
18	<i>Redemption debit</i>		
	A redemption debit for a unit trust or group investment fund for an income year	day the return of income for the income year is filed	section MB 43
19	<i>Transfer from member fund</i>		
	A transfer from a member fund to a master fund	31 March	section MB 44
20	<i>Transfer to policyholder credit account</i>		
	A transfer to a company's policyholder credit account	set out in section MB 45	section MB 45
21	<i>Credit balance when Maori authority credit account starts</i>		
	A credit balance when a Maori authority credit account starts	day of becoming a Maori authority	section MB 46
22	<i>Credit of consolidated imputation group</i>		
	A credit that is also a credit to the imputation credit account of a consolidated imputation group	credit date for the imputation credit	section MB 47
23	<i>Debit on qualifying amalgamation</i>		
	An imputation debit, FDWP debit, or policyholder debit in the account of an amalgamating company	debit date in the account of the amalgamating company	section MB 48
24	<i>Tax advantage arrangement</i>		
	A debit for tax advantage arrangement	last day of the tax year in which the arrangement began	section MB 49
25	<i>Retrospective imputation credit</i>		
	The retrospective attachment of imputation credit to a non-cash dividend	day of payment of the dividends	section MB 50
26	<i>Final balance</i>		
	A final balance when ICA company status ceases	day of cessation	section MB 51

27	<i>Refund of non-resident withholding tax</i>		
	A refund of non-resident withholding tax to an Australian ICA company	day of refund	section MB 52
28	<i>Refund of withholding payment</i>		
	A refund of withholding payment to an Australian ICA company	day of refund	section MB 53
29	<i>Refund of schedular income tax</i>		
	A refund of schedular income tax to an Australian ICA company	day of refund	section MB 54
<p><b>How to use this table</b></p> <p>Each row of the table describes—</p> <p>(a) the imputation debits that may arise in the imputation credit account of an ICA company during a tax year; and</p> <p>(b) the debit date on which the debits arise.</p> <p>A more detailed description of the imputation debits and, as necessary, debit dates is contained in the section noted in the last column.</p>			

### **MB 28 ICA payment of dividend**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 2 (payment of dividend) for the amount of an imputation credit attached to a dividend paid by the company.

#### ***Debit date***

- (2) The debit date is the day the dividend is paid.

Defined in this Act: amount, dividend, ICA company, imputation credit, imputation debit, pay

Origin: 2004 No 35 s ME 5(1)(a), (2)(a)

### **MB 29 ICA allocation of provisional tax**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 3 (allocation of provisional tax) for an amount of provisional tax allocated by the company under section MB 9 (Payments to be set of within wholly-owned group) of the Income Tax Act 2004 to an underpaid company.

***Debit date***

- (2) The debit date is the day the Commissioner is notified of the allocation.

Defined in this Act: amount, Commissioner, company, ICA company, imputation debit, notify, provisional tax

Origin: 2004 No 35 s ME 5(1)(d), (2)(d)

**MB 30 ICA refund of income tax**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 4 (refund of income tax) for the amount of a refund of income tax paid to the company. Subsection (2) overrides this subsection.

***No debit***

- (2) A debit under subsection (1) does not include—
- (a) income tax paid for a period when the company was not an ICA company; or
  - (b) income tax paid before a debit described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) arises but only to the extent to which the amount of the refund is less than the amount of the debit; or
  - (c) a refund under subpart LE (Non-resident investors) because the supplementary dividend generating the refund was paid before a debit described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) arises but only to the extent to which the amount of the refund is less than the amount of the debit.

***Part-year ICA company***

- (3) The amount of the debit that arises if the company is an ICA company for only part of a tax year is an amount calculated using the formula—

$$\left( \frac{\text{ICA days}}{365} \right) \times \text{refund.}$$

***Definition of items in formula***

- (4) In the formula,—
- (a) **ICA days** is the number of days in which the company is an ICA company;
  - (b) **refund** is the amount of the refund.

***Debit date***

- (5) The debit date is the day the refund is made.

Defined in this Act: amount, company, ICA company, imputation debit, income tax, pay, shareholder, supplementary dividend, tax year

Origin: 2004 No 35 s ME 5(1)(e), (2)(e)

### **MB 31 ICA amount applied to pay other taxes**

#### *Debit*

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 5 (amount applied to pay other taxes) for an amount of overpaid income tax applied to satisfy an amount owing under the Inland Revenue Acts. Subsection (2) overrides this subsection.

#### *No debit*

- (2) A debit under subsection (1) does not include an amount of overpaid income tax—
  - (a) applied to satisfy a liability for income tax or provisional tax; or
  - (b) relating to income tax paid before an imputation debit described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) arises to the extent to which the amount of overpaid income tax is not more than the amount of the debit for loss of shareholder continuity.

#### *Debit date*

- (3) The debit date is the day the amount is applied.

Defined in this Act: amount, ICA company, imputation debit, income tax, Inland Revenue Acts, pay, provisional tax, shareholder

Origin: 2004 No 35 s ME 5(1)(l), (2)(k)

### **MB 32 ICA refund from tax pooling account**

#### *When this section applies*

- (1) This section applies when an ICA company pays an intermediary an amount that gives rise to an imputation credit described in table M1: imputation credits, row 3 (deposit in tax pooling account) or row 4 (transfer from tax pooling account), and the amount is later refunded by the intermediary from the tax pooling account.

#### *Debit*

- (2) The company has an imputation debit as described in table M2: imputation debits, row 6 (refund from tax pooling account) for the amount of the refund.

#### *Debit date*

- (3) The debit date is the day the refund is made.



Defined in this Act: amount, ICA company, imputation credit, imputation debit, intermediary, pay

Origin: 2004 No 35 s ME 5(1)(ea), (2)(ea)

### **MB 33 ICA transfer within tax pooling account**

#### ***When this section applies***

- (1) This section applies when an ICA company pays an intermediary an amount that gives rise to an imputation credit described in table M1: imputation credits, row 3 (deposit in tax pooling account) or row 4 (transfer from tax pooling account), and the entitlement to the amount is later transferred to another person in the tax pooling account.

#### ***Debit***

- (2) The company has an imputation debit for a tax year as described in table M2: imputation debits, row 7 (transfer within tax pooling account) for the amount of the transfer of the entitlement to funds in the tax pooling account.

#### ***Debit date for companies other than qualifying companies***

- (3) The debit date for a company that is not a qualifying company is—
  - (a) the last day of the previous tax year to the extent of the amount of the debit that is not more than the credit balance in the account on that date; or
  - (b) the day the refund is made to the extent of the remaining amount of the debit that is not more than the credit balance in the imputation credit account on the day of refund; or
  - (c) the last day of the previous tax year for the remainder of the debit.

#### ***Debit date for qualifying companies***

- (4) The debit date for a qualifying company is the day the refund is made.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, imputation debit, intermediary, pay, qualifying company, tax year

Origin: 2004 No 35 s ME 5(1)(eb), (2)(ea)

### **MB 34 ICA refund of FDWP**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 8 (refund of FDWP) for the amount of a refund of FDWP paid to the company when it is not an FDWP company.

***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, FDWP, FDWP company, ICA company, imputation debit, pay

Origin: 2004 No 35 s ME 5(1)(g), (2)(g)

**MB 35 ICA refund of tax credit**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 9 (refund of tax credit) for the amount of a refund under section LD 8(1)(a) (Credit of tax for dividend withholding payment credit in hands of shareholder) paid to the company when it is not an FDWP company.

***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, FDWP company ICA company, imputation debit, pay

Origin: 2004 No 35 s ME 5(1)(h), (2)(e)

**MB 36 ICA overpayment of FDWP**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 10 (overpayment of FDWP) for an amount of overpaid FDWP applied to satisfy an amount owing under the Inland Revenue Acts. Subsection (2) overrides this subsection.

***No debit***

- (2) The debit does not include an overpayment of FDWP applied to satisfy a liability for income tax, provisional tax, or FDWP.

***Debit date***

- (3) The debit date is the day the amount is applied.

Defined in this Act: amount, ICA company, FDWP, imputation debit, income tax, Inland Revenue Acts, pay, provisional tax

Origin: 2004 No 35 s ME 5(1)(m), (2)(k)

### **MB 37 ICA transfer for net foreign attributed income**

#### ***Election***

- (1) An ICA company that is also an FDWP company may, for a tax year, choose to transfer an amount relating to net foreign attributed income from the its imputation credit account to its FDWP account. The ICA company has an imputation debit for the amount transferred as set out in subsection (2).

#### ***Debit and credit***

- (2) The amount transferred is—
  - (a) an imputation debit described in table M2: imputation debits, row 12 (transfer for net foreign attributed income) in the company's imputation credit account; and
  - (b) an FDWP credit described in table M3: FDWP credits, row 6 (transfer for net foreign attributed income) in the company's FDWP account.

#### ***Methods for calculating amount***

- (3) The amount transferred must be calculated under method 1 or method 2 as described in this section.

#### ***Two methods***

- (4) The company must apply—
  - (a) method 1 set out in subsection (5) if it is an FDWP company and a conduit tax relief company for all of the tax year; or
  - (b) method 2 set out in subsection (6) if the company is not also an FDWP company and a conduit tax relief company for all of the tax year.

#### ***Method 1***

- (5) Under method 1, the company must apply sections KH 1 and KH 2 (which relate to credits for conduit tax relief) as if—
  - (a) the amount transferred were conduit tax relief for the tax year; and
  - (b) the percentage of resident shareholders were substituted for the item **NRS** in section KH 1(2) and (3); and
  - (c) the percentage of resident shareholders were calculated by deducting the item **NRS** from 100%.

#### ***Method 2***

- (6) Under method 2, the company must make the calculation under section KH 1 as if the company were a conduit tax relief company and the item **NRS** were 100%.

#### ***No transfer***

- (7) Despite subsection (3), if neither method can be applied, no transfer arises under this section.

***Debit dates***

- (8) The debit date is—
- (a) the last day of the tax year for the amount of the debit that is no more than the amount of provisional tax paid before that date for the income year that corresponds with the tax year; and
  - (b) the day the company files its return of income for the income year for the balance of the debit.

Defined in this Act: amount, conduit tax relief company, FDWP account, FDWP company, foreign attributed income, ICA company, imputation credit account, imputation debit, income year, provisional tax, resident in New Zealand, return of income, shareholder, tax year

Origin: 2004 No 35 s ME 5(1)(o), (2)(1)

**MB 38 ICA attribution for personal services**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 13 (attribution for personal services) for an amount equal to the amount of an imputation credit described in table M1: imputation credits, row 14 (attribution for personal services).

***Accounts adjusted***

- (2) A debit under subsection (1) is recorded in the imputation credit account only if the company has accounted for an attribution of income under section GC 14D (Attribution rule: calculation).

***Debit date***

- (3) The debit date is the last day of the tax year that falls in the income year for which the company accounts in its financial statements for the attribution of income referred to in subsection (2).

Defined in this Act: amount, financial statements, ICA company, imputation credit, imputation credit account, imputation debit, income, income year, tax year

Origin: 2004 No 35 s ME 5(1)(ia), (2)(ha)

**MB 39 ICA debit for loss of shareholder continuity**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) for the amount equal to the

amount of an imputation credit retained in the imputation credit account and unused before the date of breach in shareholder continuity.

***Debit date***

- (2) The debit date is the day of loss of shareholder continuity.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, imputation debit, shareholder

Origin: 2004 No 35 s ME 5(1)(i), (2)(h)

**MB 40 ICA on-market cancellation**

***Debit***

- (1) When an ICA company acquires its shares in an on-market cancellation, it has an imputation debit as described in table M2: imputation debits, row 15 (on-market cancellation) for an amount calculated using the—

$$\text{ASC per share excess} \quad \times \quad \frac{\text{RWT rate}}{1 - \text{RWT rate.}}$$

***Definitions of items in formula***

- (2) In the formula,—
- (a) **ASC per share excess** is the amount distributed on the on-market cancellation that is more than the amount of the available subscribed capital per share calculated under the ordering rule:
- (b) **RWT rate** is the decimal fraction that is the rate of resident withholding tax set out in schedule 14, clause 2 (Rate of resident withholding tax deductions) at the time of the acquisition.

***Negative result***

- (3) If the formula produces a negative result, the debit is treated as zero.

***Debit date***

- (4) The debit date is the day the shares are acquired by the company in the on-market cancellation.

Defined in this Act: amount, available subscribed capital, ICA company, imputation debit, on-market cancellation, ordering rule, resident withholding tax, share, withholding tax

Origin: 2004 No 35 s ME 5(1)(c), (2)(c)

### **MB 41 ICA breach of imputation ratio**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 16 (breach of imputation ratio) for a breach of the benchmark dividend rules in section MB 56(5) for an amount calculated using the formula—

$$(\text{net dividends} \times \text{imputation ratio}) - \text{attached credits.}$$

#### ***Definition of items in formula***

- (2) In the formula,—
- (a) **net dividends** is the total amount of all dividends paid by the company during the tax year, excluding the amount of imputation credits and FDWP credits attached to the dividends:
  - (b) **imputation ratio** is the maximum imputation ratio or, if less, the greatest imputation ratio of dividends paid by the company for the tax year:
  - (c) **attached credits** is the amount of all imputation credits attached to dividends paid by the company for the tax year.

#### ***Ratio change declaration***

- (3) A debit under subsection (1) does not arise if the company provides a ratio change declaration under section MB 56(6).

#### ***Debit date***

- (4) The debit date is the last day of the tax year.

Defined in this Act: amount, benchmark dividend, dividend, FDWP credit, ICA company, imputation credit, imputation debit, imputation ratio, tax year

Origin: 2004 No 35 s ME 5(1)(f), (2)(f)

### **MB 42 ICA debit on leaving wholly-owned group**

#### ***Debit***

- (1) An ICA company (**company A**) has an imputation debit as described in table M2: imputation debits, row 17 (debit balance on leaving wholly-owned group) for an amount equal to the amount of an imputation debit that another company (**company B**) chooses under section MB 13 as a debit to company A's imputation credit account when company B leaves a wholly-owned group of companies.

#### ***Debit date***

- (2) The debit date is the date when the company B stops being part of the wholly-owned group.

Defined in this Act: amount, company, ICA company, imputation credit account, imputation debit, wholly-owned group

Origin: 2004 No 35 ss ME 5(1)(fb), (2)(fb), ME 9B(2)(a)(i)

### **MB 43 ICA redemption debit**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 18 (redemption debit) for the amount of a redemption debit.

#### ***When redemption debit arises***

- (2) A redemption debit arises when—
- (a) a company that is not an Australian ICA company is—
    - (i) the manager of a unit trust; or
    - (ii) the trustee or manager of a group investment fund; and
  - (b) the company derives a dividend on the redemption or cancellation of—
    - (i) a unit issued by the unit trust; or
    - (ii) an interest of an investor in the group investment fund; and
  - (c) the company has acquired the unit or interest in the ordinary course of its management activities; and
  - (d) the unit or interest had been offered to investors on terms contemplating repurchase and redemption or cancellation by the company.

#### ***Calculating amount***

- (3) The debit is for the greater of the amounts described in subsections (4) and (6) calculated for the income year in which the company derived the dividend referred to in subsection (2)(b).

#### ***First amount***

- (4) The first amount is calculated using the formula—

$$\text{total credits} - \text{imputation debits.}$$

#### ***Definition of items in formula***

- (5) In the formula in subsection (4), —
- (a) **total credits** is the total amount of all imputation credits and FDWP credits attached to dividends derived in the circumstances described in subsection (2) by the company for the income year;
  - (b) **imputation debits** is the amount of all imputation debits arising for the income year described in—
    - (i) table M2: imputation debits, row 14 (debit for loss of shareholder continuity) in the company's imputation credit account; or

- (ii) table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity) in the imputation credit account of the consolidated group of which the company is part.

***Second amount***

- (6) The second amount is calculated using the formula—

$$\frac{\text{total dividends}}{\text{company's taxable income}} \times (\text{company's tax liability} - \text{continuity debits}).$$

***Definition of items in formula***

- (7) In the formula in subsection (6), —
- (a) **total dividends** is the total amount of all dividends derived in the circumstances described in subsection (2), including imputation credits and FDWP credits attached to the dividends:
  - (b) **company's taxable income** is the taxable income of the company for the income year in which the dividends are derived:
  - (c) **company's tax liability** is the company's income tax liability for the income year:
  - (d) **continuity debits** is the imputation credits attached to the dividends that have been cancelled by an imputation debit arising during the income year as described in—
    - (i) table M2: imputation debits, row 14 (debit for loss of shareholder continuity) in the company's imputation credit account; or
    - (ii) table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity) in the imputation credit account of the consolidated group of which the company is part.

***Debit date***

- (8) The debit date is the date on which the company or the group's nominated company files the return of income for the income year in which the dividend is derived.

Defined in this Act: amount, Australian ICA company, company, consolidated imputation group, dividend, FDWP credit, group investment fund, ICA company, imputation credit, imputation credit account, imputation debit, income, income tax, income tax liability, income year, investor, nominated company, return of income, shareholder, tax, taxable income, trustee, unit trust



### **MB 44 ICA transfer to member fund**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 19 (transfer from member fund) for an amount calculated using the formula—

$$\text{expenditure transferred} \quad \times \quad \text{tax rate.}$$

#### ***Definition of items in formula***

- (2) In the formula,—
- (a) **expenditure transferred** is the amount of expenditure transferred under sections DV 5 to DV 7 (which relate to expenditure related to investment funds) by the company, as a member fund, to a master fund:
  - (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax).

#### ***Debit date***

- (3) The debit date is last day of the tax year in which the transfer occurs.

Defined in this Act: amount, basic rate, ICA company, imputation debit, master fund

Origin: 2004 No 35 s ME 5(1)(ja), (2)(ia)

### **MB 45 ICA transfer to policyholder credit account**

#### ***Election***

- (1) An ICA company that is also a PCA company may, for a tax year,—
- (a) choose to transfer some or all of a credit balance in the company's imputation credit account to the company's policyholder credit account; or
  - (b) be treated as choosing to transfer an imputation credit to the policyholder credit account.

#### ***Debit and credit***

- (2) A credit balance or credit transferred under this section is—
- (a) an imputation debit described in table M2: imputation debits, row 20 (transfer to policyholder credit account) in the company's imputation credit account; and
  - (b) a policyholder credit as described in table M13: policyholder credits, row 2 (transfer from imputation credit account) in the company's policyholder credit account.

***Method of election***

- (3) The company makes the election by recording the balance transferred as—
- (a) a debit in the company’s imputation credit account; and
  - (b) a credit in the company’s policyholder credit account.

***Election for some credits***

- (4) The company must make the election no later than the last day of the tax year for an amount of the credit balance that arises in the following circumstances:
- (a) the company has adopted a non-standard accounting year; and
  - (b) during the tax year the company derives a dividend that gives rise to a credit in the company’s imputation credit account described in table M1: imputation credits, row 7 (derivation of dividend with imputation credit) or row 8 (derivation of dividend with FDWP credit); and
  - (c) the credit is included in the credit balance because it has not been used, and the company has not breached the shareholder continuity requirement set out in section MA 8 (Shareholder continuity requirements for memorandum accounts).

***Mandatory transfer for company with non-standard accounting year***

- (5) Despite the absence of an election during the tax year, a company that has adopted a non-standard accounting year is treated as having chosen at the end of the tax year to transfer the credit described in subsection (6) from the imputation credit account to the policyholder credit account.

***Credit***

- (6) The company is treated as having made an election for a tax year to the extent to which—
- (a) during the tax year, or no later than the end of the accounting year corresponding with the tax year, a credit arises as described in either of the following rows of table M1: imputation credits:
    - (i) row 2 (payment of tax) for a payment of provisional tax; or
    - (ii) row 9 (payment of FDWP) for a payment of FDWP; and
  - (b) during the tax year, the credit has not been cancelled by a later debit arising as described in either of the following rows of table M2: imputation debits:
    - (i) row 4 (refund of income tax) for a refund of provisional tax paid during the accounting year;
    - (ii) row 8 (refund of FDWP) for a refund of FDWP paid during the accounting year; and
  - (c) the credit has not been included in a credit balance transferred by an election under subsection (3).

***Ordering rule***

- (7) For the purpose of determining under subsection (6)(b) whether a debit has cancelled a credit, debits are treated as cancelling credits in the order in which the credits arise.

***Credit and debit dates***

- (8) The credit dates and debit dates for the credit balance and credit transferred are—
- (a) the day of election for the credit balance transferred under subsection (3); and
  - (b) the last day of the tax year for a credit that the company is treated as having chosen under subsection (4) to transfer.

Defined in this Act: accounting year, dividend, FDWP credit, ICA company, imputation credit account, imputation debit, income tax, non-standard accounting year, pay, PCA company, policyholder credit account, provisional tax, shareholder, tax year

Origin: 2004 No 35 ss ME 5(1)(b), (2)(b), ME 7

**MB 46 ICA credit balance when Maori authority credit account starts**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 21 (credit balance when Maori authority credit account starts) for a credit balance in the company's imputation credit account just before the company becomes a Maori authority.

***Debit date***

- (2) The debit date is the day just before the company becomes a Maori authority.

Defined in this Act: ICA company, imputation credit account, imputation debit, Maori authority, Maori authority credit account

Origin: 2004 No 35 s ME 5(1)(ka), (2)(ja)

**MB 47 ICA imputation credit of consolidated imputation group**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 22 (credit of consolidated imputation group) for the amount of an imputation credit in the company's imputation credit account that is also a credit in the imputation credit account of a consolidated imputation group of which the company is part.

***Debit date***

- (2) The debit date is the day on which the imputation credit is recorded in the imputation account of the consolidated imputation group.

Defined in this Act: amount, ICA company, consolidated imputation group, imputation credit, imputation credit account, imputation debit

Origin: 2004 No 35 s ME 13(3)

**MB 48 ICA debit on qualifying amalgamation**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 23 (debit on qualifying amalgamation) for the amount of a debit described in subsection (2) that arises on or after a qualifying amalgamation in the account of the amalgamated company under 1 of the sections listed in subsection (2).

***Sections***

- (2) The sections are—
- (a) section MA 10 (Memorandum accounts on qualifying amalgamation) for imputation debits in the imputation credit account of an amalgamating company:
  - (b) section MA 14 (Continuity of shareholding when group companies amalgamate) for imputation debits in the imputation credit account of a consolidated imputation group that ceases to exist on the amalgamation:
  - (c) section MA 11 (FDWP account on qualifying amalgamation) for FDWP debits in the FDWP account of an amalgamating company because the amalgamated company does not maintain an FDWP account:
  - (d) section MA 16 (When FDWP account ends on qualifying amalgamation) for FDWP debits in the FDWP account of a consolidated group because the amalgamated company does not maintain an FDWP account:
  - (e) section MA 12 (Conduit tax relief account on qualifying amalgamation) for the conduit tax relief debits in the conduit tax relief account of an amalgamating company because the amalgamated company does not maintain a conduit tax relief account:
  - (f) section MA 13 (Policyholder credit account on qualifying amalgamation) for the policyholder debits in the policyholder credit account of an amalgamating company because the amalgamated company does not maintain a policyholder credit account:
  - (g) section MA 17 (When policyholder credit account ends on qualifying amalgamation) for the policyholder debits on the policyholder credit account of a consolidated group because the amalgamated company does not maintain a policyholder credit account.

Defined in this Act: amalgamated company, amalgamating company, consolidated group, consolidated imputation group, conduit tax relief account, credit, FDWP account, ICA company, imputation credit account, imputation debit, policyholder credit account, qualifying amalgamation

Origin: 2004 No 35 ss ME 29, MG 17, MI 13

### **MB 49 ICA tax advantage arrangement**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 24 (tax advantage arrangement) for the amount of a debit for a tax advantage arrangement determined under section GC 22(4) (Imputation: arrangement to obtain tax advantage).

#### ***Debit date***

- (2) The debit date is the last day of the tax year in which the debit for the tax advantage arrangement is determined.

Defined in this Act: amount, arrangement, ICA company, imputation debit, tax advantage, tax year

Origin: 2004 No 35 s ME 5(1)(j), (2)(h)

### **MB 50 ICA retrospective imputation credit**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 25 (retrospective imputation credit) for an imputation credit that is retrospectively attached to a non-cash dividend under section MB 57.

#### ***Debit date***

- (2) The debit date is the day the dividend is paid.

Defined in this Act: ICA company, imputation credit, imputation debit, non-cash dividend, pay

Origin: 2004 No 35 s ME 6(4)(a)

### **MB 51 ICA final balance**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 26 (final balance) for a credit balance in the imputation credit account when the company stops being an ICA company.

#### ***Debit date***

- (2) The debit date is the day the company stops being an ICA company.

Defined in this Act: ICA company, imputation credit account, imputation debit

Origin: 2004 No 35 s ME 5(1)(k), (2)(j)

### **MB 52 ICA refund of non-resident withholding tax**

#### ***Debit***

- (1) An Australian ICA company has an imputation debit as described in table M2: imputation debits, row 27 (refund of non-resident withholding tax) for the amount of a refund of non-resident withholding tax that gives rise to an imputation credit described in table M1: imputation credits, row 23 (deduction of non-resident withholding tax).

#### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, imputation credit, imputation debit, non-resident withholding tax

Origin: 2004 No 35 s ME 5(1A)(a), (2A)

### **MB 53 ICA refund of withholding payment**

#### ***Debit***

- (1) An Australian ICA company has an imputation debit as described in table M2: imputation debits, row 28 (refund of withholding payment) for the amount of a refund of withholding payment that gives rise to an imputation credit described in table M1: imputation credits, row 24 (deduction from withholding payment).

#### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, imputation credit, imputation debit, pay, withholding payment

Origin: 2004 No 35 s ME 5(1A)(b), (2A)

### **MB 54 ICA refund of schedular income tax**

#### ***Debit***

- (1) An Australian ICA company has an imputation debit as described in table M2: imputation debits, row 29 (refund of schedular income tax) for the amount of a refund of a payment of schedular income tax that gives rise to an imputation credit described in table M1: imputation credits, row 25 (payment of schedular income tax).

#### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, imputation credit, imputation debit, pay, schedular income tax, withholding payment

Origin: 2004 No 35 s ME 5(1A)(c), (2A)

### ***Imputation credits attached to dividends***

### **MB 55 Imputation credits attached to dividends**

#### ***Attaching imputation credits***

- (1) When an ICA company pays a dividend, it may attach an imputation credit to the dividend.

#### ***Retrospective attachment***

- (2) The company may determine that an imputation credit is retrospectively attached to a dividend in the circumstances described in section MB 57.

#### ***Imputation ratio for dividend***

- (3) A dividend with an imputation credit attached has an imputation ratio calculated using the formula—

$$\frac{\text{company's imputation credit}}{\text{net dividend paid.}}$$

#### ***Definition of items in formula***

- (4) In the formula in subsection (3),—
  - (a) **company's imputation credit** is the amount of the imputation credit that the company attaches to the dividend:

- (b) **net dividend paid** is the amount of the dividend paid, excluding the amount of the imputation credit and FDWP credit attached.

***Maximum permitted ratio***

- (5) A dividend with an imputation credit attached must not have an imputation ratio that is more than the maximum imputation ratio calculated using the formula—

$$\frac{\text{tax rate}}{1 - \text{tax rate.}}$$

***Definition of item in formula***

- (6) In the formula in subsection (5), **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year that corresponds with the tax year in which the dividend is paid.

***Conversion of AUD dividend***

- (7) A dividend paid in Australian currency by an Australian ICA company must be converted into New Zealand currency, calculated using the formula—

$$\text{Australian dollar value} \quad \times \quad \text{exchange rate.}$$

***Definition of items in formula***

- (8) In the formula in subsection (7),—
- (a) **Australian dollar value** is the amount of the dividend in Australian dollars:
- (b) **exchange rate** is the close of trading spot exchange rate for the Australian dollar on—
- (i) the day the dividend is declared if that day is no more than 3 months before the dividend is paid; or
- (ii) the day the dividend is paid if that day is more than 3 months after the dividend is declared.

Defined in this Act: amount, Australian ICA company, basic rate, close of trading spot exchange rate, company, dividend, FDWP credit, ICA company, imputation credit, imputation ratio, income year, pay, tax year

Origin: 2004 No 35 ss ME 1B, ME 6

**MB 56 ICA benchmark dividend rules**

***When this section applies***

- (1) This section applies when an ICA company pays a dividend on more than 1 occasion during a tax year. Subsection (2) overrides this subsection.



***Exclusions***

- (2) This section does not apply to the following dividends:
- (a) a dividend that is the subject of an election by a statutory producer board under sections MB 66 to MB 68:
  - (b) a dividend that is the subject of an election by a co-operative company under sections MB 71 to MB 73:
  - (c) a dividend paid when the company is not an ICA company.

***Benchmark dividend***

- (3) The first dividend of the tax year is the benchmark dividend.

***Same imputation ratio***

- (4) The imputation ratio of a dividend paid after the benchmark dividend must be the same as the imputation ratio of the benchmark dividend.

***Breach of imputation ratio***

- (5) A breach of subsection (4) gives rise to an amount of an imputation debit described in table M2: imputation debits, row 16 (breach of imputation ratio) calculated using the formula in section MB 41(1).

***Ratio change declaration***

- (6) To prevent the consequences of a breach of subsection (4), an ICA company may notify the Commissioner that the dividend is not part of an arrangement to obtain a tax advantage by providing a ratio change declaration stating that the dividend is not part of an arrangement to which section GC 22 (Imputation: arrangement to obtain tax advantage) applies. The company must provide the declaration before the dividend is paid, or by a later date if the Commissioner allows. For the purposes of this subsection, the dividend must not be part of an arrangement to obtain a tax advantage.

***Consolidated imputation group***

- (7) This section applies, modified as necessary, to a consolidated imputation group as if it were a single company.

***Group debit***

- (8) Under section MP 2(2) (When credits and debits arise only in group accounts), a breach of an imputation ratio alternatively gives rise to an imputation debit described in table M20: imputation debits of consolidated imputation groups, row 14 (breach of imputation ratio) if the company is part of a consolidated imputation group.

***Treatment of group dividends***

- (9) In the application of this section to a consolidated imputation group, a dividend paid between group companies is disregarded.

Defined in this Act: arrangement, benchmark dividend, Commissioner, company, consolidated imputation group, co-operative company, dividend, ICA company, imputation debit, imputation ratio, notify, pay, statutory producer board, tax advantage, tax year

Origin: 2004 No 35 ss ME 8(2), ME 14(2)

## **MB 57 Retrospective attachment of imputation credits**

### ***Imputation credits attached retrospectively***

- (1) An ICA company that pays a non-cash dividend may attach retrospectively an imputation credit to the dividend if the amount of the dividend is later adjusted under section GD 13(3) or (4) (Cross border arrangements between associated persons).

### ***Amount of imputation credit***

- (2) The amount of all imputation credits attached retrospectively under subsection (1) during a tax year must not be more than the lesser of—
  - (a) the credit balance of the company's imputation credit account at the end of the tax year in which the dividend is paid; or
  - (b) the credit balance of the company's imputation credit account at the end of each of the tax years in the period that runs from the tax year of payment of the dividend to the tax year in which the credit is attached retrospectively under subsection (1).

### ***When subsection (4) applies***

- (3) Subsection (4) applies if—
  - (a) a company provides a company dividend statement and issues a shareholder dividend statement for a non-cash dividend at the time it retrospectively attaches an imputation credit; and
  - (b) the adjustment under section GD 13(3) or (4) results in a payment of income tax; and
  - (c) the attachment of the imputation credit would otherwise result in a liability for imputation penalty tax.

### ***New credit date***

- (4) The credit date for the imputation credit arising for the payment of the income tax referred to in subsection (3)(b) is the day on which the non-cash dividend is paid, and the company is excused a breach of section 69 of the Tax Administration Act 1994 for failure to file a correct annual imputation return through the retrospective attachment of an imputation credit.

### ***Statements still required***

- (5) A company that fails to satisfy subsection (3)(a) remains liable to provide a company dividend statement and to issue a shareholder dividend statement for the non-cash dividend and the retrospective attachment of an imputation credit.

Defined in this Act: amount, annual imputation return, company, company dividend statement, ICA company, imputation credit, imputation credit account, imputation penalty tax, income tax, non-cash dividend, pay, shareholder, shareholder dividend statement, tax year

Origin: 2004 No 35 s ME 6

### ***Further income tax***

#### **MB 58 Further income tax for ICA closing debit balance**

##### ***Liability***

- (1) An ICA company is liable to pay further income tax for a debit balance in the company's imputation credit account at the end of a tax year.

##### ***Exclusion***

- (2) An imputation debit arising described in table M2: imputation debits, row 19 (transfer from member fund) is disregarded when determining under subsection (1) if the company has a debit balance at the end of a tax year.

##### ***Due date***

- (3) The company must pay the further income tax to the Commissioner no later than 20 June following the end of the tax year.

Defined in this Act: Commissioner, company, further income tax, ICA company, imputation credit account, imputation debit, pay, tax year

Origin: 2004 No 35 s ME 9(1), (1a), (2)

#### **MB 59 Further income tax when company stops being ICA company**

##### ***Liability***

- (1) An ICA company is liable to pay further income tax for a debit balance in the company's imputation credit account when the company stops being an ICA company.

##### ***Due date***

- (2) The company must pay the further income tax to the Commissioner on the day the company stops being an ICA company.

##### ***Paramount section***

- (3) A company that stops being an ICA company on the last day of a tax year is liable to pay further income tax under this section and not under section MB 58.

Defined in this Act: Commissioner, company, further income tax, ICA company, imputation credit account, pay, tax year

Origin: 2004 No 35 s ME 9(3)

## **MB 60 Reduction of further income tax**

### ***Debit at previous year-end***

- (1) An ICA company's liability for further income tax under sections MB 58 and MB 59 may be reduced under subsection (2) if—
- (a) a debit balance existed in the company's imputation credit account at the end of a tax year; and
  - (b) the credit that arises in the account in the following tax year totals less than the debit balance; and
  - (c) the company notifies the Commissioner.

### ***Amount of reduction***

- (2) The liability is reduced by the amount that is the debit balance for the tax year less the total amount of credits for the following tax year.

### ***Qualifying companies***

- (3) The liability of an ICA company that is a qualifying company for further income tax under sections MB 58 and MB 59 may be reduced under subsection (4) if an imputation debit described in table M2: imputation debits, row 4 (refund of income tax) arises in the company's imputation credit account before the end of the tax year for which the liability arises.

### ***Amount of reduction***

- (4) The liability of the qualifying company for further income tax at the end of the tax year referred to in subsection (3) is reduced by an amount calculated using the formula—

refunds - credits.

### ***Definition of items in formula***

- (5) In the formula,—
- (a) **refunds** is the total amount of all refunds of income tax paid to the company before the debit balance creating the liability for further income tax referred to in subsection (3) arises:
  - (b) **credits** is the total amount of all credits to the company's imputation credit account for the period that runs from the tax year in which the first refund was received to the time the calculation is made.

Defined in this Act: amount, Commissioner, further income tax, ICA company, imputation credit account, imputation debit, imputation rules, income tax, notify, qualifying company, tax year

Origin: 2004 No 35 s ME 9(7)-(9)

## **MB 61 Income tax paid satisfying liability for further income tax**

### ***Election***

- (1) On meeting the requirements in subsection (2), an ICA company that is liable for further income tax may choose to satisfy the liability through a payment of income tax.

### ***Requirements***

- (2) The company must pay the income tax—
  - (a) after the end of the tax year in which the relevant debit balance arises; and
  - (b) for an income year corresponding to the tax year in which the company is an ICA company.

### ***Payment credited***

- (3) The payment of income tax satisfies the company's liability to pay further income tax.

### ***When treated as paid***

- (4) The further income tax is treated as paid on the date on which the Commissioner receives the payment of income tax.

Defined in this Act: Commissioner, company, further income tax, ICA company, income tax, income year, pay, tax year

Origin: 2004 No 35 s ME 9(5A), (8), (9)

## **MB 62 Further income tax paid satisfying liability for income tax**

### ***Election***

- (1) An ICA company that pays further income tax may choose to treat the payment as satisfying a liability of the company to pay income tax or provisional tax.

### ***ICA company status***

- (2) The liability for income tax or provisional tax referred to in subsection (1) must be for an income year corresponding to a tax year in which the company is an ICA company.

***Alternative for consolidated imputation group***

- (3) A company that is part of a consolidated imputation group may choose that the payment under subsection (1) satisfies a group liability for income tax or provisional tax that arises at or after the time of payment.

***When treated as paid***

- (4) The liability for income tax or provisional tax is treated as paid on the day on which the further income tax is paid.

***Australian ICA company***

- (5) An Australian ICA company may choose to convert a payment of further income tax into an available net loss of an amount calculated under subsection (7). Subsection (6) overrides this subsection.

***Requirement***

- (6) The election under subsection (5) may be made only if no possibility exists that the further income tax can be credited against a future income tax liability of the company.

***Available net loss***

- (7) For the purposes of subsection (5), the amount of the available net loss for the payment of further income tax is calculated using the formula—

$$\frac{\text{further income tax paid}}{\text{tax rate.}}$$

***Definition of items in formula***

- (8) In the formula,—
- (a) **further income tax paid** is the amount of further income tax paid that is not credited against an income tax liability:
- (b) **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) at the time the further income tax is paid.

***Benefit of the loss***

- (9) For the purposes of subsection (5), the company may choose that the available net loss is attributed to itself or another company in the same wholly-owned group.

***When loss is attributed***

- (10) The available net loss referred to in subsection (5) is a loss for the income year corresponding to the tax year in which the company paid the further income tax.

Defined in this Act: amount, Australian ICA company, available net loss, basic rate, consolidated imputation group, further income tax, ICA company, income tax, income tax liability, income year, pay, provisional tax, tax year, wholly-owned group

Origin: 2004 No 35 ss ME 9(5), (5B), ME 13(6)

### **MB 63 Application of other provisions**

When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—

- (a) apply to further income tax as if they addressed further income tax and not income tax; and
- (b) apply, modified as necessary, to ensure their application to further income tax rather than income tax; and
- (c) do not override the imputation rules or section 101 of the Tax Administration Act 1994.

Defined in this Act: further income tax, imputation rules, income tax

Origin: 2004 No 35 s ME 9(6)

### *Additional income tax*

### **MB 64 Additional income tax on leaving wholly-owned group**

#### *When this section applies*

- (1) This section applies in a tax year when—
  - (a) a company (**company A**) stops being part of a wholly-owned group of companies because of a change in the ultimate owner of the company; and
  - (b) the total amount of available net losses from the previous tax year for companies in the group is more than \$1,000,000.

#### *Liability for additional income tax*

- (2) At the time company A stops being part of the group, it is liable for additional income tax on a debit balance of the company's imputation credit account but, in dealing with the liability, it may transfer some or all of the debit balance under subsection (3) or choose to use its excess entitlement under subsection (4), or a combination of both.

#### *Debit balance*

- (3) Company A may choose to transfer under section MB 42 some or all of a debit balance in the company's imputation credit account to another company (**company B**) in the same group. An additional income tax liability remains for the amount of the debit balance that is not transferred.

***Payment of tax***

- (4) Company A may choose to use the amount of the excess entitlement described in subsection (5) as follows:
- (a) company A may choose to treat company B as having paid provisional tax or income tax but only to the extent to which the amount is not more than the excess entitlement;
  - (b) company A may choose to use the amount of the excess entitlement under subsection (2) against the liability for additional income tax but only to the extent to which the amount is not more than the amount referred to in paragraph (a).

***Amount of excess entitlement***

- (5) Company A's excess entitlement at the time it stops being part of the group is 1 of the following amounts:
- (a) zero, if the credit balance of its imputation credit account at the time is equal to or more than—
    - (i) the amount in the tax pooling account provided by or for the benefit of company A that is more than its liability to pay income tax or provisional tax at the time; or
    - (ii) the entitlement company A would have to a refund under section MD 1 (Refund of excess tax) of the Income Tax Act 2004 as if section MD 2 (Limit on refunds and allocations of tax) of that Act did not apply; or
  - (b) the total of the amounts referred to in paragraph (a)(i) and (ii) if no credit balance exists at the time; or
  - (c) the excess of the credit balance over the total of the amounts referred to in paragraph (a)(i) and (ii), if paragraph (b) does not apply.

***Due date***

- (6) The additional income tax must be paid to the Commissioner no later than the 20th day of the month following the month in which company A stops being part of the group.

***Joint liability***

- (7) Company A and all companies in the group are jointly liable for the additional income tax. A payment of additional income tax does not satisfy any other liability of company A or the group.

***Payment by excess tax***

- (8) Company A, or another company in the group, may choose to apply an excess tax payment to satisfy company A's liability.

***Form of election***

- (9) An election under this section must follow the form of an election under section MB 13(4).



Defined in this Act: additional income tax, amount, available net loss, Commissioner, company, excess tax payment, imputation credit account, income tax, income tax liability, pay, provisional income tax, tax year, ultimate owner, wholly-owned group

Origin: 2004 No 35 s ME 9B

## **MB 65 Additional income tax on joining wholly-owned group**

### ***Liability***

- (1) An ICA company to which subsection (2) applies may be liable for additional income tax under—
  - (a) subsection (3) as the company's first liability under this section; or
  - (b) subsection (5) as the company's second liability under this section.

### ***Liable company***

- (2) The company is 1 to which all of the following apply:
  - (a) the company is or was recently part of a wholly-owned group of companies (called the **former group**); and
  - (b) the company has or will soon join a different wholly-owned group of companies (called the **new group**); and
  - (c) the former group has available net losses of more than \$1,000,000 for the tax year before the income year corresponding to the tax year in which the company changes groups.

### ***First liability***

- (3) The company is liable for additional income tax if, at a particular time,—
  - (a) a debit balance exists in the company's imputation credit account; and
  - (b) an imputation debit arose when the company was part of the former group; and
  - (c) the additional income tax liability of the company has not been paid under section MB 64 by the company or another company in the former group.

### ***Amount of liability***

- (4) The amount of the additional income tax liability under subsection (3) is equal to the amount of the imputation debit at the time the company becomes part of the new group.

### ***Second liability***

- (5) The company is liable for an amount of additional income tax equal to the excess entitlement determined under subsection (6).

***Excess entitlement***

- (6) The company's excess entitlement at a particular time is 1 of the following amounts:
- (a) zero, if the credit balance of the company's imputation credit account at the time is equal to or more than—
    - (i) the amount in the tax pooling account provided by or for the benefit of the company that is more than the company's liability to pay income tax or provisional tax at the time; or
    - (ii) the company's entitlement to a refund under section MD 1 (Refund of excess tax) of the Income Tax Act 2004; or
  - (b) the total of the amounts referred to in paragraph (a)(i) and (ii) if no credit balance exists at the time; or
  - (c) the excess of the credit balance over the total of the amounts referred to in paragraph (a)(i) and (ii), if paragraph (b) does not apply.

***Due date***

- (7) The additional income tax must be paid to the Commissioner no later than the 20th day of the month following the month in which the company stops being part of the former group.

***Joint liability***

- (8) The company and all companies in the new group are jointly liable for the additional income tax. A payment of additional income tax does not satisfy any other liability of the company or the new group.

***Payment by excess tax***

- (9) For a liability under subsections (3) and (5), the company or another company in the new group may choose to satisfy the liability by applying an excess tax payment in discharging it.

Defined in this Act: additional income tax, amount, company, Commissioner, excess tax payment, ICA company, imputation credit account, imputation debit, income tax liability, income year, pay, provisional tax, wholly-owned group

Origin: 2004 No 35 s ME 9C

## *Distributions of statutory producer boards and co-operative companies*

### **MB 66 Statutory producer boards attaching imputation credits to cash distributions**

#### *Election*

- (1) On meeting the requirements in subsection (2), a statutory producer board that is an ICA company may choose, for an income year, to attach an imputation credit to a cash distribution paid to a member of the producer board.

#### *Requirements*

- (2) The producer board may make an election under subsection (1) if—
- (a) the distribution is made to all persons who were members of the board at a time in the income year; and
  - (b) the board proposes to pay the distribution based on 1 of the factors set out in subsection (3); and
  - (c) the board would, if this section did not exist, be allowed a deduction for some or all of the distribution, whether as a rebate under section HF 1 (Profits of mutual associations in respect of transactions with members) or under some other provision of this Act.

#### *Methods*

- (3) The amount of the distribution must be based on 1 of the following methods of determination, as applicable, for an income year:
- (a) all payments for a member's produce transactions during the income year as a proportion of total payments for all members' produce transactions during the income year; or
  - (b) all levies payable by a member for the income year as a proportion of total levies payable by members for the income year; or
  - (c) another method of determination approved by the Commissioner.

#### *Total credits attached*

- (4) The total amount of imputation credit attached to the distribution is calculated using the formula—

$$\text{total net dividend} \quad \times \quad \frac{\text{tax rate}}{1 - \text{tax rate}}$$

***Definition of items in formula***

- (5) In the formula in subsection (4),—
- (a) **total net dividend** is the total amount of the distribution excluding the amount of imputation credit:
  - (b) **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year.

***Member's credits***

- (6) The amount of a member's share of an imputation credit attached under subsection (4) is calculated using the formula—

$$\frac{\text{member's distribution}}{\text{total distribution}} \quad \times \quad \text{total imputation credit attached.}$$

***Definitions of items in formula***

- (7) In the formula in subsection (6),—
- (a) **member's distribution** is the amount of the member's share of the distribution excluding the amount of imputation credit:
  - (b) **total distribution** is the amount of the total distribution paid excluding the amount of imputation credit:
  - (c) **total imputation credit attached** is total amount of imputation credit attached to the distribution calculated under subsection (4).

***When producer board chooses not to have deduction***

- (8) If a producer board chooses to treat a distribution as a dividend, it is denied a deduction for the amount of the distribution under section DV 14 (Statutory producer boards and co-operative companies).

Defined in this Act: amount, basic rate, Commissioner, deduction, dividend, ICA company, imputation credit, income tax, income year, levy, member, pay, produce transactions, rebate, statutory producer board

Origin: 2004 No 35 s ME 30

**MB 67 Statutory producer boards attaching imputation credits to notional distributions**

***Election***

- (1) A statutory producer board that is an ICA company may choose, for an income year, to attach an imputation credit to a notional distribution, as a result of which a member derives a dividend of an amount calculated under section MB 68(2). Subsections (2) and (8) override this subsection.

***All members***

- (2) A statutory producer board may make an election under subsection (1) only if the distribution is made to all persons who were members of the producer board at a time in the income year.

***Methods***

- (3) The producer board may determine that the amount of an imputation credit attached to a notional distribution is based on—
- (a) produce transactions, and calculated under subsection (5) for each member; or
  - (b) members' levies, and calculated under subsection (7) for each member; or
  - (c) a combination of paragraphs (a) and (b); or
  - (d) some other method of determination approved by the Commissioner.

***Produce transactions***

- (4) The amount of an imputation credit attached to a member's distribution that is based on produce transactions is calculated using the formula—

$$\frac{\text{member's payment}}{\text{total payments}} \times \text{total credit.}$$

***Definition of items in formula***

- (5) In the formula in subsection (4),—
- (a) **member's payments** is the total amount of all payments to or by a member for the member's produce transactions during the income year:
  - (b) **total payments** is all payments to or by all members for produce transactions during the income year:
  - (c) **total credit** is the total amount of the imputation credit attached to the distribution.

***Members' levies***

- (6) An imputation credit attached to a member's distribution that is based on members' levies is calculated using the formula—

$$\frac{\text{member's levies}}{\text{total levies}} \times \text{total credit.}$$

***Definition of items in formula***

- (7) In the formula in subsection (6),—
- (a) **member's levies** is the total amount of all levies payable by a member to the producer board for the income year:
  - (b) **total levies** is total amount of all levies payable by all members to the producer board for the income year:

- (c) **total credit** is the total amount of imputation credit attached to the distribution.

***Commissioner's determination***

- (8) The Commissioner may apply subsections (4) to (7) to determine the amount of the imputation credit to be treated as attached to a member's distribution if the Commissioner considers that the producer board's application of subsections (3) to (7) does not result in a fair and reasonable allocation of an amount of imputation credit to a member having regard to—
- (a) the produce transactions of the producer board; and
  - (b) the levies payable to the producer board; and
  - (c) another relevant factor.

Defined in this Act: amount, Commissioner, dividend, ICA company, imputation credit, income year, levy, member, pay, produce transactions, statutory producer board

Origin: 2004 No 35 s ME 32

**MB 68 Statutory producer boards' notional distributions that are dividends**

***Dividend derived***

- (1) A notional distribution to which section MB 67 applies that has an imputation credit attached is a dividend under section CD 8 (Notional distributions of producer boards and co-operative companies) derived by a member.

***Calculation of amount***

- (2) The amount of the dividend is calculated using the formula—

$$\frac{\text{credit attached}}{\text{tax rate}} - \text{credit attached.}$$

***Definitions of items in formula***

- (3) In the formula,—
- (a) **credit attached** is the amount of imputation credit attached to the member's distribution:
  - (b) **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year.

***When derived***

- (4) The member derives the dividend on the date the producer board chooses under section MB 67 to make a notional distribution.

***Returns and information***

- (5) For the purposes of this section, the producer board must—
- (a) include the details of the dividend with the return of income filed for the tax year corresponding to the income year in relation to which the distribution was made; and
  - (b) retain relevant information to enable the Commissioner to determine whether a later distribution is not a dividend under section CD 18(3) or CD 24(1) (which relate to capital distributions on liquidation and payments that correspond to notional distributions).

Defined in this Act: amount, basic rate, Commissioner, company, distribution, dividend, imputation credit, income tax, income year, member, pay, producer board, return of income

Origin: 2004 No 35 s ME 33

**MB 69 Statutory producer boards attaching FDWP credits**

***FDWP credits attached***

- (1) A statutory producer board that is an FDWP company may choose, for an income year, to attach an FDWP credit to a cash distribution or a notional distribution. An FDWP credit may be attached in conjunction with an imputation credit.

***Application of provisions***

- (2) Sections MB 66 to MB 68 and MB 70 apply, modified as necessary, to the producer board, the distribution, and the FDWP credit.

***Both credits at once***

- (3) A producer board may choose to attach both an imputation credit and an FDWP credit as part of 1 distribution.

Defined in this Act: FDWP company, FDWP credit, imputation credit, income year, statutory producer board

Origin: 2004 No 35 s ME 34

**MB 70 When and how statutory producer board makes election**

***Timing of election***

- (1) A statutory producer board may make an election under section MB 66, MB 67, or MB 69 in relation to a distribution either—
- (a) after the income year in relation to which the distribution is made; or
  - (b) no later than 6 months after the end of the income year in relation to which the distribution is made.

*Notice*

- (2) A producer board must notify the Commissioner of an election referred to in subsection (1) no later than the time allowed for the producer board to file a return of income for the tax year corresponding to the income year in relation to which the distribution is made.

Defined in this Act: Commissioner, dividend, income year, return of income, statutory producer board, tax year

Origin: 2004 No 35 s ME 30(3), (4)

**MB 71 Co-operative companies attaching imputation credits to cash distributions**

*Election*

- (1) On meeting the requirements in subsection (2), a co-operative company that is an ICA company may choose, for an income year, to attach an imputation credit to a cash distribution paid to the company's shareholders.

*Requirements*

- (2) A co-operative company may make an election under subsection (1) if—
- (a) the distribution is made to all persons who were shareholders of the company at a time during the income year; and
  - (b) the distribution is based on the proportion for the income year in which the payments to or by a shareholder for their produce transactions are of total payments to or by all shareholders for all produce transactions; and
  - (c) the company would, if this section did not exist, be allowed a deduction for some or all of the distribution, whether as a rebate under section HF 1 (Profits of mutual associations in respect of transactions with members) or some other provision of this Act; and
  - (d) no other election for a cash distribution is made for the income year.

*Total credit attached*

- (3) The total amount of imputation credit attached to the distribution is calculated using the formula—

$$\text{total net dividend} \quad \times \quad \frac{\text{tax rate}}{1 - \text{tax rate}}.$$

*Definition of items in formula*

- (4) In the formula in subsection (3),—
- (a) **total net dividend** is the total amount of the distribution excluding the amount of imputation credit:



- (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year.

***Shareholder's credit***

- (5) The amount of a shareholder's share of the imputation credit attached as described in subsection (3) is calculated using the formula—

$$\frac{\text{shareholder's distribution}}{\text{total distribution}} \times \text{total imputation credit attached.}$$

***Definition of items in formula***

- (6) In the formula in subsection (5),—
- (a) **shareholder's distribution** is the amount that is the shareholder's share of the distribution, excluding the amount of imputation credit:
- (b) **total distribution** is the amount of the total distribution paid, excluding the amount of imputation credit:
- (c) **total imputation credit attached** is total amount of imputation credit attached to the distribution calculated under subsection (3).

***When co-operative company chooses not to have deduction***

- (7) If a co-operative company chooses to treat a distribution as a dividend, it is denied a deduction under section DV 14 (Statutory producer boards and co-operative companies). The company must notify the Commissioner of an election under this subsection under section MB 75(3) for the election to be effective.

Defined in this Act: amount, basic rate, co-operative company, deduction, dividend, ICA company, imputation credit, income tax, income year, Maori authority, notify, pay, produce transactions, rebate, shareholder

Origin: 2004 No 35 s ME 36

**MB 72 Co-operative companies attaching imputation credits to notional distributions**

***Election***

- (1) On meeting the requirements in subsection (2), a co-operative company that is an ICA company may choose, for an income year, to attach an imputation credit to a notional distribution, as a result of which a member derives a dividend of an amount calculated under section MB 73.

***Requirements***

- (2) A co-operative company may make an election under subsection (1) if—
- (a) the distribution is made to all persons who were shareholders of the company at a time during the income year; and

- (b) no other election to pay a notional distribution is made for the income year.

***Shareholder's credits***

- (3) The amount of a shareholder's share of an imputation credit attached to a notional distribution is calculated using the formula—

$$\frac{\text{produce payments}}{\text{total payments}} \times \text{total credit.}$$

***Definition of items in formula***

- (4) In the formula,—
- (a) **produce payments** is the amount of all payments to or by the shareholder for the shareholder's produce transactions during the income year:
  - (b) **total payments** is the amount of all payments to or by shareholders for produce transactions during the income year:
  - (c) **total credit** is total amount of imputation credit that the company attaches to the distribution.

Defined in this Act: amount, co-operative company, dividend, ICA company, imputation credit, income year, member, pay, rebate, shareholder

Origin: 2004 No 35 s ME 37

**MB 73 Co-operative companies' notional distributions that are dividends**

***Dividends***

- (1) A notional distribution referred to in section MB 72 that has an imputation credit attached is a dividend under section CD 8 (Notional distributions of producer boards and co-operative companies) derived by a shareholder of the co-operative company.

***Amount***

- (2) The amount of a shareholder's dividend is calculated using the formula—

$$\frac{\text{credit attached}}{\text{tax rate}} - \text{tax rate.}$$

***Definition of items in formula***

- (3) In the formula,—
- (a) **credit attached** is the amount of imputation credit attached to the shareholder's distribution:
  - (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year.

***When derived***

- (4) The shareholder derives the dividend on the date the co-operative company chooses under section MB 72 to make a notional distribution.

Defined in this Act: amount, basic rate, co-operative company, dividend, imputation credit, income tax, income year, shareholder

Origin: 2004 No 35 s ME 38

**MB 74 Co-operative companies attaching FDWP credits**

***Election***

- (1) A co-operative company that is an FDWP company may choose, for an income year, to attach an FDWP credit to a cash distribution. The FDWP credit may be attached in conjunction with an imputation credit.

***Application of provisions***

- (2) Sections MB 71 to MB 73 and section 64 of the Tax Administration Act 1994 apply, modified as necessary, to the co-operative company, the distribution, and the FDWP credit.

***Both credits at once***

- (3) A co-operative company may choose to attach both an imputation credit and an FDWP credit as part of 1 distribution.

Defined in this Act: co-operative company, FDWP company, FDWP credit, imputation credit, income year

Origin: 2004 No 35 s ME 39

**MB 75 When and how co-operative company makes election**

***One a year***

- (1) A co-operative company may make an election under section MB 71, MB 72, or MB 74 in relation to a distribution for—
- (a) only 1 cash distribution during the income year:
  - (b) only 1 notional distribution during the income year.

***Timing***

- (2) A co-operative company may make an election referred to in subsection (1)—
- (a) after the income year in relation to which the distribution is made; or
  - (b) no later than 6 months after the end of the income year in relation to which the distribution is made.

*Notice*

- (3) A co-operative company must notify the Commissioner of an election referred to in subsection (1)(a) no later than the time allowed for the company to file a return of income for the tax year corresponding to the income year in relation to which the distribution is made.

Defined in this Act: Commissioner, co-operative company, income year, notify, return of income, tax year

Origin: 2004 No 35 s ME 35

## **Subpart MC—Foreign dividend withholding payment accounts**

### **Contents**

#### *Introductory provisions*

- MC 1 General rules for companies with FDWP accounts
- MC 2 FDWP accounts
- MC 3 Choosing to become FDWP company
- MC 4 When company chooses to stop being FDWP company

#### *FDWP credits*

Table M3: FDWP credits

- MC 5 FDWPA payment of FDWP
- MC 6 FDWPA derivation of dividend with FDWP credit
- MC 7 FDWPA payment of FDWP for transfer from conduit tax relief account
- MC 8 FDWPA transfer for net foreign attributed income
- MC 9 FDWPA payment of FDWP for conduit debit balance
- MC 10 FDWPA reversal of tax advantage arrangement

#### *FDWP debits*

Table M4: FDWP debits

- MC 11 FDWPA payment of dividend
- MC 12 FDWPA refund of FDWP
- MC 13 FDWPA overpayment of FDWP
- MC 14 FDWPA refund of tax credit
- MC 15 FDWPA transfer to imputation credit account
- MC 16 FDWPA transfer to conduit tax relief account
- MC 17 FDWPA transfer to policyholder credit account
- MC 18 FDWPA transfer to group account
- MC 19 FDWPA breach of FDWP ratio
- MC 20 FDWPA breach of FDWP ratio by PCA company
- MC 21 FDWPA debit for loss of shareholder continuity
- MC 22 FDWPA tax advantage arrangement
- MC 23 FDWPA final balance

#### *FDWP credits attached to dividends*

- MC 24 FDWP credits attached to dividends

- MC 25 FDWPA benchmark dividend rules
- MC 26 FDWP credits and imputation credits attached to dividends

***Further FDWP***

- MC 27 Payment of further FDWP for closing debit balance
- MC 28 Payment of further FDWP when company no longer New Zealand resident
- MC 29 Reduction of further FDWP
- MC 30 FDWP paid satisfying liability for further FDWP
- MC 31 Further FDWP paid satisfying liability for FDWP

***Some definitions for section MC 20***

- MC 32 Meaning of FDWP reference period
- MC 33 Meaning of maximum deficit debit
- MC 34 Meaning of policyholder FDWP ratio
- MC 35 Meaning of reduced deficit debit
- MC 36 Meaning of shareholder FDWP ratio

## ***Introductory provisions***

### **MC 1 General rules for companies with FDWP accounts**

***FDWP company***

- (1) A company resident in New Zealand may choose to become an FDWP company.

***FDWP accounts***

- (2) An FDWP company must maintain an FDWP account for a tax year. The account is a record of FDWP credits and FDWP debits that arise in the account during the tax year.

***Main credit***

- (3) An FDWP company has an FDWP credit for an amount of FDWP paid under subpart NH (Dividend withholding payments) when the company derives a dividend from a non-resident company.

***Main debit***

- (4) An FDWP company has an FDWP debit for the amount of an FDWP credit attached to a dividend paid to the company's shareholders.

***Treatment of FDWP credit by shareholder***

- (5) The amount of an FDWP credit attached to a dividend derived by a shareholder is included in the amount of the dividend under section CD 9 (Tax credits linked to dividends).

***Refunds***

- (6) A person who derives a dividend with an FDWP credit attached has a refund under section LD 9 (Refund to non-resident or exempt shareholders) if the dividend is exempt income of the person.

***Shareholder continuity requirement***

- (7) The carrying forward of a credit in a company's FDWP account is subject to the shareholder continuity requirement in section MA 8 (Shareholder continuity requirements for memorandum accounts).

***Imputation credits***

- (8) If a company does not choose to become an FDWP company, a payment of FDWP on a dividend derived from a non-resident company is accounted for under the imputation rules under section MB 11 (ICA payment of FDWP).

Defined in this Act: amount, assessable income, company, dividend, exempt income, FDWP account, FDWP company, FDWP credit, FDWP debit, imputation rules, income, non-resident company, pay, resident in New Zealand, shareholder, tax year

Origin: 2004 No 35 ss CD 9, LD 9, ME 4(1)(e), (f), MG 2(1), (3), MG 5(3)

**MC 2 FDWP accounts**

***General rules apply***

- (1) The general rules on memorandum accounts set out in sections MA 2 and MA 3 (which relate to the treatment of memorandum accounts) apply to the FDWP account of an FDWP company.

***Consolidated groups***

- (2) Under section MP 48 (When credits and debits arise only in consolidated FDWP group accounts), certain credits and debits do not arise in the account if the company is part of a consolidated group.

Defined in this Act: consolidated group, FDWP account, FDWP company, memorandum account

Origin: 2004 No 35 s MG 16(1), (4)

### **MC 3 Choosing to become FDWP company**

#### ***Election***

- (1) A company that chooses to become an FDWP company must notify the Commissioner of the election no later than 21 days after the date of the election or by a later date if the Commissioner allows it.

#### ***Effect of election***

- (2) An FDWP company must maintain the FDWP account referred to in section MC 1(2) from the date of election.

Defined in this Act: Commissioner, company, FDWP account, FDWP company, notify

Origin: 2004 No 35 s MG 2(2), (3)

### **MC 4 When company chooses to stop being FDWP company**

#### ***Election***

- (1) An FDWP company may choose to stop being an FDWP company.

#### ***When election made***

- (2) An FDWP company may make an election under subsection (1) only in a tax year that is later than the tax year in which the company chooses under section MC 3 to become an FDWP company.

#### ***When company's status ends***

- (3) The company ends its status as an FDWP company from the start of the later tax year referred to in subsection (2) but only if, before the election, the company—
  - (a) files an annual FDWP return for the year of election in the time allowed by section 71 of the Tax Administration Act 1994; and
  - (b) pays an amount of further FDWP under section MC 27 or MC 28 for the year of election.

Defined in this Act: amount, annual FDWP return, FDWP, FDWP company, further FDWP, tax year

Origin: 2004 No 35 s MG 2 (4), (5)



## *FDWP credits*

**Table M3: FDWP credits**

Row	FDWP credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Payment of FDWP</i>		
	FDWP paid	day of payment	section MC 5
3	<i>Payment of further FDWP</i>		
	Further FDWP paid	day of payment	section MC 5
4	<i>Derivation of dividend with FDWP credit</i>		
	An FDWP credit attached to a dividend derived	day the dividend is paid	section MC 6
5	<i>Payment of FDWP for transfer from conduit account</i>		
	FDWP paid on transfer from conduit tax relief account	31 March	section MC 7
6	<i>Transfer for net foreign attributed income</i>		
	A transfer from an imputation credit account on account of net foreign attributed income for an income year	debit date in the imputation credit account	section MC 8
7	<i>Payment of FDWP for conduit debit balance</i>		
	FDWP paid for a debit balance in a company's conduit tax relief account	day of payment	section MC 9
8	<i>Reversal of tax advantage arrangement</i>		
	The reversal of a debit for a tax advantage arrangement	debit date of the debit	section MC 10
<p><b>How to use this table</b>  Each row of the table describes—</p> <p>(a) the FDWP credits that may arise in the FDWP account of an FDWP company during a tax year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the FDWP credits is contained in the section noted in the last column.</p>			

### **MC 5 FDWPA payment of FDWP**

#### *Credit*

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 2 (payment of FDWP) and row 3 (payment of further FDWP) for an amount of FDWP paid, including an amount of further FDWP paid under section MC 31. Subsection (2) overrides this subsection.

***No credit***

- (2) The company does not have a credit for FDWP paid—
- (a) under section NH 3(2) or (3) (Payment and recovery of dividend withholding payment) by the reduction of a net loss; and
  - (b) for a conduit tax relief debit referred to in section MD 23(2)(d) to (f) (FDWP payable for conduit tax relief debits).

***Credit date***

- (3) The credit date is the day the FDWP is paid.

Defined in this Act: amount, conduit tax relief debit, FDWP, FDWP account, FDWP credit, further FDWP, net loss, pay

Origin: 2004 No 35 ss MG 4(1)(a), (c), (2)(a), (3), MI 10(2)

**MC 6 FDWPA derivation of dividend with FDWP credit**

***Credit***

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 4 (derivation of dividend with FDWP credit) for the amount of an FDWP credit attached to a dividend derived by the company.

***Credit date***

- (2) The credit date is the day the dividend is paid.

Defined in this Act: dividend, FDWP company, FDWP credit, pay

Origin: 2004 No 35 s MG 4(1)(b), (2)(b)

**MC 7 FDWPA payment of FDWP for transfer from conduit tax relief account**

***Credit***

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 5 (payment of FDWP for transfer from conduit account) for the amount of a payment of FDWP under section MD 23(2)(a) (FDWP payable for conduit tax relief debits).

***Credit date***

- (2) The credit date is the last day of the tax year.

Defined in this Act: amount, FDWP, FDWP company, FDWP credit, pay

Origin: 2004 No 35 s MG 4(1)(bb), (2)(bb)

## **MC 8 FDWPA transfer for net foreign attributed income**

### *Credit*

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 6 (transfer for net foreign attributed income) for an amount equal to the amount of the imputation debit described in table M2: imputation debits, row 12 (transfer for net foreign attributed income).

### *Credit date*

- (2) The credit date is the same as the debit date recorded for the debit in the imputation credit account.

Defined in this Act: amount, FDWP company, FDWP credit, foreign attributed income, imputation credit account, imputation debit

Origin: 2004 No 35 s MG 4(1)(ba), (2)(ba)

## **MC 9 FDWPA payment of FDWP for conduit debit balance**

### *Credit*

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 7 (payment of FDWP for conduit debit balance) for the amount of a payment of FDWP under section MD 23(2)(b), (c), or (g) (FDWP payable for conduit tax relief debits).

### *Credit date*

- (2) The credit date is the day the FDWP is paid.

Defined in this Act: amount, FDWP, FDWP account, FDWP company, FDWP credit, pay

Origin: 2004 No 35 s MG 4(1)(bc), (2)(bc)

## **MC 10 FDWPA reversal of tax advantage arrangement**

### *Credit*

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 8 (reversal of tax advantage arrangement) for an amount equal to the amount of a debit in the company's FDWP account described in table M4: FDWP debits, row 13 (tax advantage arrangement).

### *Credit date*

- (2) The credit date is the same as the debit date recorded for the debit.

Defined in this Act: amount, arrangement, FDWP account, FDWP company, FDWP credit, tax advantage

Origin: 2004 No 35 s MG 4(1)(d), (2)(d)

## *FDWP debits*

**Table M4: FDWP debits**

Row	FDWP debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of dividend</i>		
	An FDWP credit attached to dividend paid	day of payment	section MC 11
3	<i>Refund of FDWP</i>		
	A refund of FDWP	day of refund	section MC 12
4	<i>Overpayment of FDWP</i>		
	Overpaid FDWP applied to satisfy a tax liability	day of application	section MC 13
5	<i>Refund of tax credit</i>		
	A refund of a tax credit	day of refund	section MC 14
6	<i>Transfer to imputation credit account</i>		
	A transfer of a closing credit balance to a company's imputation credit account	31 March	section MC 15
7	<i>Transfer to conduit tax relief account</i>		
	A transfer of a credit balance to a company's conduit tax relief account	31 March	section MC 16
8	<i>Transfer to policyholder credit account</i>		
	A transfer of a credit balance to a company's policyholder credit account	set out in section MC 17	section MC 17
9	<i>Transfer to group account</i>		
	A transfer of a credit to a group FDWP account	credit date under in group account	section MC 18
10	<i>Breach of FDWP ratio</i>		
	A debit for breach of an FDWP ratio	31 March	section MC 19

11	<i>Breach of FDWP ratio by PCA company</i>		
	A breach of FDWP ratio by FDWP company that is also a PCA company	31 March	section MC 20
12	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity	day of loss of continuity	section MC 21
13	<i>Tax advantage arrangement</i>		
	A debit for a tax advantage arrangement	last day of tax year in which the arrangement began	section MC 22
14	<i>Final balance</i>		
	A final balance when FDWP company status ends	day of cessation	section MC 23
<p><b>How to use this table</b></p> <p>Each row of the table describes—</p> <p>(a) the FDWP debits that may arise in the FDWP account of an FDWP company during a tax year; and</p> <p>(b) the debit date when the debit arises.</p> <p>A more detailed description of the FDWP debits and, as necessary, debit dates is contained in the section noted in the last column.</p>			

### MC 11 FDWPA payment of dividend

#### *Debit*

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 2 (payment of dividend) for the amount of a FDWP credit attached to a dividend paid by the company.

#### *Debit date*

- (2) The debit date is the day the dividend is paid.

Defined in this Act: amount, dividend, FDWP company, FDWP credit, FDWP debit, pay

Origin: 2004 No 35 s MG 5(1)(a), (2)(a)

### MC 12 FDWPA refund of FDWP

#### *Debit*

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 3 (refund of FDWP) for the amount of a refund of FDWP paid to the company. Subsection (2) overrides this subsection.

***No debit***

- (2) The company does not have a debit for the amount of—
- (a) a refund to the extent to which it refunds FDWP paid before a debit described in table M4: FDWP debits, row 12 (debit for loss of shareholder continuity) arises; or
  - (b) a refund of FDWP paid under section MD 25 (Refunds on transfers to conduit tax relief account).

***Debit date***

- (3) The debit date is the day the refund is made.

Defined in this Act: amount, FDWP, FDWP account, FDWP company, FDWP debit, pay, shareholder

Origin: 2004 No 35 s MG 5(1)(d), (2)(d)

**MC 13 FDWPA overpayment of FDWP**

***Debit***

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 4 (overpayment of FDWP) for the amount of an overpayment of FDWP that is applied to satisfy an amount owing under the Inland Revenue Acts. Subsection (2) overrides this subsection.

***No debit***

- (2) The company does not have a debit for the amount of an overpayment of FDWP—
- (a) that is applied to satisfy a liability for FDWP; or
  - (b) that—
    - (i) relates to a payment of FDWP before an FDWP debit described in table M4: FDWP debits, row 12 (debit for loss of shareholder continuity) arises; and
    - (ii) is not more than the debit for loss of shareholder continuity.

***Debit date***

- (3) The debit date is the day the amount is applied.

Defined in this Act: amount, FDWP, FDWP company, FDWP debit, Inland Revenue Acts, pay, shareholder

Origin: 2004 No 35 s MG 5(1)(k), (2)(i)

### **MC 14 FDWPA refund of tax credit**

#### ***Debit***

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 5 (refund of tax credit) for the amount of refund under section LD 8(1)(c) (Credit of tax for dividend withholding payment credit in hands of shareholder) to the company.

#### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, FDWP company, FDWP debit

Origin: 2004 No 35 s MG 5(1)(e), (2)(d)

### **MC 15 FDWPA transfer to imputation credit account**

#### ***Election***

- (1) An FDWP company may choose for a tax year to transfer some or all of a closing credit balance in the company's FDWP account to the imputation credit account of—
  - (a) the company; or
  - (b) an imputation group of which the company is part.

#### ***Debit and credit***

- (2) The amount transferred is—
  - (a) an FDWP debit described in table M4: FDWP debits, row 6 (transfer to imputation credit account) in the company's imputation credit account; and
  - (b) an imputation credit described in, as applicable,—
    - (i) table M1: imputation credits, row 10 (transfer from FDWP account) in the company's imputation credit account; or
    - (ii) table M19: imputation credits of consolidated imputation groups, row 11 (transfer from group company's FDWP account) in the imputation credit account of the consolidated imputation group.

#### ***Method of election***

- (3) The company makes the election by recording the credit balance transferred as—
  - (a) a debit in the company's FDWP account; and
  - (b) a credit in the imputation credit account of—
    - (i) the company; or
    - (ii) the imputation group.

***Conduit tax relief companies***

- (4) Despite subsection (1), an FDWP company that is also a conduit tax relief company may not choose to make the transfer.

***Debit date***

- (5) The debit date is the last day of the tax year.

Defined in this Act: amount, conduit tax relief company, consolidated imputation group, FDWP, FDWP account, FDWP company, FDWP debit, imputation credit, imputation credit account, imputation group, tax year

Origin: 2004 No 35 ss MG 5(1)(c), (2)(c), MG 11

**MC 16 FDWPA transfer to conduit tax relief account**

***Debit***

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 7 (transfer to conduit tax relief account) for an amount transferred when a credit balance in the company's FDWP account is treated under subsections (2) and (3) as transferred to the company's conduit tax relief account. The amount of the debit is the smaller of the credit balance and debit balance set out in subsection (2).

***When debit arises***

- (2) The debit for the transfer arises when—
- (a) a credit balance exists in the company's FDWP account just before the end of the tax year; and
  - (b) a debit balance exists in the company's conduit tax relief account just before the end of the tax year.

***Determining balances***

- (3) For the purposes of subsection (2), —
- (a) the credit balance in the FDWP account is found by including an FDWP credit described in table M3: FDWP credits, row 6 (transfer for net foreign attributed income); and
  - (b) the debit balance in the conduit tax relief account is found by including an conduit tax relief credit described in table M5: conduit tax relief credits, row 2 (rebate for conduit tax relief); and
  - (c) the debit balance and the credit balance are determined just before a transfer under this section is made.



***Amount of debit and credit***

- (4) The smaller of the debit balance or the credit balance referred to in subsection (2) becomes—
- (a) the FDWP debit described in table M4: FDWP debits, row 7 (transfer to conduit tax relief account); and
  - (b) the conduit tax relief credit described in table M5: conduit tax relief credits, row 3 (transfer from FDWP account).

***Debit date***

- (5) The debit date is the last day of the tax year.

Defined in this Act: amount, conduit tax relief account, conduit tax relief credit, FDWP account, FDWP company, FDWP debit, foreign attributed income, income tax, tax year

Origin: 2004 No 35 ss MG 5(1)(ca), (2)(ca), MI 6(1)

**MC 17 FDWPA transfer to policyholder credit account**

***Election***

- (1) An FDWP company that is also a PCA company may, for a tax year,—
- (a) choose to transfer some or all of a credit balance in the company's FDWP account to its policyholder credit account; or
  - (b) be treated as choosing to transfer a credit in the FDWP account to the policyholder credit account.

***Debit and credit***

- (2) The credit balance or the amount of the credit transferred is—
- (a) an FDWP debit described in table M4: FDWP debits, row 8 (transfer to policyholder credit account); and
  - (b) a policyholder credit described in table M13: policyholder credits, row 3 (transfer from FDWP account).

***Method of election***

- (3) The FDWP company makes the election by recording the amount transferred as—
- (a) a debit in the FDWP account; and
  - (b) a credit in the policyholder credit account.

***Scope of election***

- (4) If the credit balance in subsection (1)(a) includes an FDWP credit described in table M3: FDWP credits, row 4 (derivation of dividend with FDWP credit), the company must make the election under subsection (1) no later than the end of the tax year in which the debit date for the transfer of the FDWP credit occurs.

***Mandatory transfer***

- (5) Despite the absence of an election during the tax year, an FDWP company is treated as having chosen to transfer a credit balance that includes an FDWP credit described in table M3: FDWP credits, row 2 (payment of FDWP) during the tax year when the FDWP credit has not been cancelled by a subsequent FDWP debit described in table M4: FDWP debits, row 3 (refund of FDWP) before the end of the company's accounting year corresponding to the tax year.

***Cancellation order***

- (6) For the purposes of subsection (5), debits are treated as reducing credits in the order in which the credits arise.

***Conduit tax relief companies***

- (7) Despite subsection (1), an FDWP company that is also a conduit tax relief company may not choose to make the transfer.

***Credit and debit dates***

- (8) The credit dates and the debit dates for the credit balance and the credits transferred are—
- (a) the day of election for the credit balance transferred at the company's election under subsection (1); and
  - (b) the last day of the tax year for a credit that the company is treated under subsection (5) as having chosen to transfer.

Defined in this Act: accounting year, amount, conduit tax relief company, dividend, FDWP, FDWP account, FDWP company, FDWP credit, pay, PCA company, policyholder credit account, tax year

Origin: 2004 No 35 ss MG 5(1)(b), (2)(b), MG 7

**MC 18 FDWPA transfer to group account**

***Debit***

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 9 (transfer to group account) for an amount equal to the amount of the FDWP credit described in table M21: FDWP credits of consolidated FDWP groups, row 5 (group company's credit) for the transfer of a credit to the FDWP account of the consolidated group of which the company is part.

***Debit date***

- (2) The debit date is the same as the credit date recorded in the consolidated group's FDWP account.

Defined in this Act: amount, consolidated group, FDWP account, FDWP company, FDWP credit, FDWP debit

Origin: 2004 No 35 s MG 16(3)

### MC 19 FDWPA breach of FDWP ratio

#### *Debit*

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 10 (breach of FDWP ratio) for a breach of the benchmark dividend rules in section MC 25(4) for an amount calculated using the formula—

$$\text{net dividends} \times \text{FDWP ratio} - \text{attached credits.}$$

#### *Definition of items in formula*

- (2) In the formula,—
- (a) **net dividends** is the total amount of all dividends paid by the company during the tax year, excluding imputation credits and FDWP credits attached to the dividends:
  - (b) **FDWP ratio** is the maximum FDWP ratio or, if it is less, the greatest FDWP ratio of dividends paid by the company during the tax year:
  - (c) **attached credits** is the amount of all FDWP credits attached to dividends paid by the company during the tax year.

#### *Ratio change declaration*

- (3) A debit under subsection (1) does not arise if the FDWP company provides a ratio change declaration under section MC 25(6).

#### *Debit date*

- (4) The debit date is the last day of the tax year.

Defined in this Act: amount, benchmark dividend, dividend, FDWP account, FDWP company, FDWP credit, FDWP debit, FDWP ratio, imputation credit, tax year

Origin: 2004 No 35 s MG 5(1)(f), (2)(e)

### MC 20 FDWPA breach of FDWP ratio by PCA company

#### *Debit*

- (1) An FDWP company has an FDWP debit for a tax year as described in table M4: FDWP debits, row 11 (breach of FDWP ratio by PCA company) for an amount described in subsection (2) when—
- (a) the company is also a PCA company; and
  - (b) the company is not also a conduit tax relief company; and
  - (c) during the tax year the company pays a dividend with an FDWP credit attached; and

- (d) the dividend does not result from an election by—
  - (i) a statutory producer board under sections MB 66 to MB 68 (which relate to producer boards' notional distributions); or
  - (ii) a co-operative company under sections MB 71 to MB 73 (which relate to co-operative companies' notional distributions); and
- (e) a positive amount exists for the total amount of the company's policyholder income and policyholder net loss for the tax year under the policyholder base calculation for each tax year of the FDWP reference period; and
- (f) the shareholder FDWP ratio for the tax year is more than the policyholder FDWP ratio.

***Amount of debit***

- (2) The amount of the debit is—
  - (a) the maximum deficit debit if the credit balance in the FDWP account at the end of the tax year, but before the debit arises, is more than the maximum deficit debit; or
  - (b) the reduced deficit debit if paragraph (a) does not apply.

***Consolidated group***

- (3) This section applies, modified as necessary, to a consolidated group with a policyholder credit account as if the group were a single company. In the application of this section to the group—
  - (a) the definition of credits in the item **policyholder FDWP ratio** in section MC 34 is read as referring to a transfer under section NH 6(2) (Application of specific dividend withholding payment provisions to consolidated groups) to the group's policyholder credit account; and
  - (b) a dividend paid between group companies is disregarded.

***Debit date***

- (4) The debit date is the last day of the tax year.

Defined in this Act: amount, company, conduit tax relief company, consolidated group, co-operative company, dividend, FDWP, FDWP account, FDWP company, FDWP credit, FDWP debit, FDWP ratio, FDWP reference period, income tax, Maori authority, maximum deficit debit, PCA company, policyholder base, policyholder credit account, policyholder FDWP ratio, policyholder income, policyholder net loss, reduced deficit debit, shareholder, shareholder FDWP ratio, statutory producer board, tax year

Origin: 2004 No 35 ss MG 5(1)(g),(2)(e), MG 8B, MG 16A(1B)

**MC 21 FDWPA debit for loss of shareholder continuity**

***Debit***

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 12 (debit for loss of shareholder continuity) for the amount equal to the

amount of an FDWP credit retained in the FDWP account and unused before the date of breach in shareholder continuity.

***Debit date***

- (2) The debit date is the day of loss of shareholder continuity.

Defined in this Act: amount, FDWP account, FDWP company, FDWP credit, FDWP debit, shareholder

Origin: 2004 No 35 s MG 5(1)(i), (2)(g), (3), (4)

**MC 22 FDWPA tax advantage arrangement**

***Debit***

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 13 (tax advantage arrangement) for the amount of a debit for a tax advantage arrangement determined under section GC 22 (Imputation: arrangement to obtain tax advantage).

***Debit date***

- (2) The debit date is the last day of the tax year in which the tax advantage arrangement began.

Defined in this Act: amount, arrangement, FDWP company, FDWP debit, tax advantage

Origin: 2004 No 35 s MG 5(1)(h)

**MC 23 FDWPA final balance**

***Debit***

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 14 (final balance) for a credit balance in the FDWP account when the company stops being an FDWP company.

***Debit date***

- (2) The debit date is the day the company stops being an FDWP company.

Defined in this Act: FDWP account, FDWP company, FDWP debit

Origin: 2004 No 35 s MG 5(1)(j), (2)(i)

## *FDWP credits attached to dividends*

### **MC 24 FDWP credits attached to dividends**

#### *Attaching FDWP credits*

- (1) When an FDWP company pays a dividend, it may attach an FDWP credit to the dividend. Subsection (2) overrides this subsection.

#### *Exclusion*

- (2) Subsection (1) does not apply to an FDWP company that is also a conduit tax relief company.

#### *FDWP ratio for dividend*

- (3) A dividend with an FDWP credit attached has an FDWP ratio calculated using the formula—

$$\frac{\text{FDWP credits attached}}{\text{net dividends.}}$$

#### *Definition of items in formula*

- (4) In the formula in subsection (3),—
- (a) **FDWP credits attached** is the amount of FDWP credits that the company attaches to the dividends;
- (b) **net dividends** is the amount of dividends paid, excluding imputation credits and FDWP credits.

#### *Maximum permitted ratio*

- (5) A dividend with an FDWP credit attached must not have an FDWP ratio that is more than the maximum FDWP ratio calculated using the formula—

$$\frac{\text{tax rate}}{(1 - \text{tax rate}).}$$

#### *Definition of item in formula*

- (6) In the formula in subsection (5), **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year corresponding with the tax year in which the dividend is paid.

Defined in this Act: amount, basic rate, company, conduit tax relief company, dividend, FDWP, FDWP account, FDWP company, FDWP credit, FDWP ratio, income tax, income year, pay, tax year

Origin: 2004 No 35 ss MG 6, MG 8(1)

## **MC 25 FDWPA benchmark dividend rules**

### ***When this section applies***

- (1) This section applies when an FDWP company pays a dividend on more than 1 occasion during a tax year. Subsection (2) overrides this subsection.

### ***Exclusions***

- (2) This section does not apply to a dividend that is the subject of an election by—
  - (a) a statutory producer board under sections MB 66 to MB 68 (which relate to statutory boards' notional distributions); and
  - (b) a co-operative company under sections MB 71 to MB 73 (which relate to co-operative companies' notional distributions).

### ***Benchmark dividend***

- (3) The first dividend of the tax year is the benchmark dividend.

### ***Same FDWP ratio***

- (4) The FDWP ratio of a dividend paid after the benchmark dividend must be the same as the FDWP ratio of the benchmark dividend.

### ***Breach of FDWP ratio***

- (5) A breach of subsection (4) gives rise to an FDWP debit as described in table M4: FDWP debits, row 10 (breach of FDWP ratio) for an amount calculated using the formula in section MC 19.

### ***Ratio change declaration***

- (6) To prevent the consequences of a breach of subsection (4), an FDWP company may notify the Commissioner that the dividend is not part of an arrangement to obtain a tax advantage by providing a ratio change declaration stating that the dividend is not part of an arrangement to which section GC 22 (Imputation: arrangement to obtain tax advantage) applies. The company must provide the declaration before the dividend is paid, or by a later date if the Commissioner allows. For the purposes of this subsection, the dividend must not be part of an arrangement to obtain a tax advantage.

### ***Consolidated group***

- (7) This section applies, modified as necessary, to a consolidated group as if it were a single company.

### ***Group debit***

- (8) Under section MP 48 (When credits and debits arise only in consolidated FDWP group accounts), a breach of an FDWP ratio alternatively gives rise to an FDWP debit described in table M22: FDWP debits of consolidated group, row 9 (breach of FDWP ratio) if the company is part of a consolidated group.

### ***Treatment of group dividends***

- (9) In the application of this section to a consolidated group, a dividend paid between group companies is disregarded.

Defined in this Act: arrangement, benchmark dividend, Commissioner, company, consolidated group, co-operative company, dividend, FDWP, FDWP company, FDWP debit, FDWP ratio, statutory producer board, tax advantage, tax year

Origin: 2004 No 35 ss MG 8(2), (3), MG 16A(1)

## MC 26 FDWP credits and imputation credits attached to dividends

### *Attaching combined credits*

- (1) When an FDWP company pays a dividend, it may attach both an FDWP credit and an imputation credit to the dividend.

### *Combined ratio*

- (2) A dividend with combined credits attached has a combined imputation and FDWP ratio calculated using the formula—

$$\frac{\text{combined credits attached}}{\text{net dividends.}}$$

### *Definition of items in formula*

- (3) In the formula in subsection (2),—
- (a) **combined credits attached** is the total amount of FDWP credits and the imputation credits attached to the dividend:
- (b) **net dividends** is the amount of dividends paid, excluding the amount of FDWP credits and the imputation credits.

### *Maximum permitted ratio*

- (4) A dividend with combined credits attached must not have a combined imputation and FDWP ratio that is more than the maximum ratio calculated using the formula—

$$\frac{\text{tax rate}}{(1 - \text{tax rate})}.$$

### *Definition of item in formula*

- (5) In the formula in subsection (4), **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year corresponding with the tax year in which the dividend is paid.

### *Breach of combined ratio breach*

- (6) A breach of the maximum ratio set out in subsection (4) gives rise to an excess credit amount that is calculated using the formula—

$$\text{net dividends} \times (\text{combined ratio} - \text{maximum ratio}).$$



*Definition of items in formula*

- (7) In the formula,—
- (a) **net dividends** is the amount of dividends paid, excluding FDWP credits and the imputation credits:
  - (b) **combined ratio** is the combined imputation and FDWP ratio of the dividend:
  - (c) **maximum ratio** is the maximum combined imputation and FDWP ratio permitted under subsection (4).

Defined in this Act: basic rate, combined imputation and FDWP ratio, company, dividend, excess credit amount, FDWP company, FDWP credit, FDWP ratio, imputation credit, income tax, pay, tax year

Origin: 2004 No 35 s MG 10

*Further FDWP*

**MC 27 Payment of further FDWP for closing debit balance**

*Liability*

- (1) An FDWP company or consolidated group is liable to pay further FDWP for a closing debit balance in the FDWP account of the company or the group.

*Due date*

- (2) The company must pay the further FDWP to the Commissioner no later than the 20 June following the end of the tax year.

*Application of other provisions*

- (3) When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—
- (a) apply to further FDWP as if they addressed further FDWP and not income tax; and
  - (b) apply, modified as necessary, to ensure their application to further FDWP rather than income tax; and
  - (c) do not override the FDWP rules or section 103 of the Tax Administration Act 1994.

Defined in this Act: amount, Commissioner, company, FDWP account, FDWP company, FDWP rules, further FDWP, income tax, pay, tax year

Origin: 2004 No 35 s MG 9(1), (2), (6)

## **MC 28 Payment of further FDWP when company no longer New Zealand resident**

### ***Liability***

- (1) An FDWP company is liable to pay further FDWP for a debit balance in the company's FDWP account when the company stops being resident in New Zealand.

### ***Due date***

- (2) The company must pay the further FDWP to the Commissioner on the day the company ends its residence in New Zealand.

### ***Paramount section***

- (3) A company that stops being an FDWP company on the last day of a tax year is liable for further FDWP under this section and not under section MC 27.

### ***Application of other provisions***

- (4) Section MC 24(3) applies to the treatment of further FDWP under this section.

Defined in this Act: Commissioner, FDWP account, FDWP company, FDWP rules, further FDWP, pay, resident in New Zealand, tax year

Origin: 2004 No 35 s MG 9(3)

## **MC 29 Reduction of further FDWP**

### ***Debit at previous year-end***

- (1) An FDWP company's liability for further FDWP under section MC 27 or MC 28 may be reduced under subsection (2) if—
  - (a) a debit balance existed in the company's FDWP account at the end of a tax year; and
  - (b) a credit that arises in the account in the following tax year totals less than the debit balance; and
  - (c) the company notifies the Commissioner.

### ***Amount of reduction***

- (2) The liability is reduced by the amount that is the debit balance for the tax year less the total amount of credits for the following tax year.

Defined in this Act: amount, Commissioner, FDWP account, FDWP company, FDWP credit, further FDWP, tax year

Origin: 2004 No 35 s MG 9(7), (8)

### **MC 30 FDWP paid satisfying liability for further FDWP**

#### ***Election***

- (1) On meeting the requirements of subsection (2), an FDWP company that is liable for further FDWP may choose to satisfy the liability through a payment of FDWP.

#### ***Requirements***

- (2) The company must pay the FDWP—
  - (a) after the end of the tax year in which the relevant debit balance arises; and
  - (b) for an income year corresponding to a tax year in which the company is an FDWP company.

#### ***Payment credited***

- (3) The payment of FDWP satisfies the company's liability to pay further FDWP.

#### ***When treated as paid***

- (4) The further FDWP is treated as paid on the date the Commissioner receives the payment of FDWP.

Defined in this Act: Commissioner, company, FDWP, FDWP company, further FDWP, income year, pay, tax year

Origin: 2004 No 35 s MG 9(5A)

### **MC 31 Further FDWP paid satisfying liability for FDWP**

#### ***Election***

- (1) A company that pays further FDWP may choose to treat the payment as satisfying a liability of the company to pay FDWP.

#### ***FDWP company status***

- (2) The liability referred to in subsection (1) must be for an income year that corresponds with a tax year in which the company is an FDWP company.

#### ***Alternative for consolidated group***

- (3) A company that is part of a consolidated group may choose that the payment under subsection (1) satisfies a group liability for FDWP owed by another group company when or after the payment is made.

Defined in this Act: company, consolidated group, FDWP, FDWP company, further FDWP, income year, pay, tax year

Origin: 2004 No 35 ss MG 9(5), MG 16(6)

### *Some definitions for section MC 20*

#### **MC 32 Meaning of FDWP reference period**

*When this section applies*

- (1) This section applies for the purposes of sections MC 20 and MC 33 to MC 36.

*Meaning*

- (2) **FDWP reference period** means the period comprising the tax year and the longest period of consecutive tax years in which an FDWP company did not pay a dividend with an FDWP credit attached that—
- (a) starts on or after the debit date for the debit; and
  - (b) ends on the last day of the tax year that falls before the tax year in which the dividend referred to in section MC 20(1)(c) is paid.

Defined in this Act: dividend, FDWP company, FDWP credit, pay, tax year

Origin: 2004 No 35 s MG 8B(4)

#### **MC 33 Meaning of maximum deficit debit**

*When this section applies*

- (1) This section applies for the purposes of section MC 20.

*Meaning*

- (2) **Maximum deficit debit** means the amount calculated using the formula—

$$(\text{shareholder ratio} - \text{policyholder ratio}) \times \text{net result} \times (1 - \text{tax rate}).$$

*Definition of items in formula*

- (3) In the formula,—
- (a) **shareholder ratio** is an FDWP company's shareholder FDWP ratio for the FDWP reference period;
  - (b) **policyholder ratio** is the company's policyholder FDWP ratio for the FDWP reference period;
  - (c) **net result** is the amount of the company's policyholder income less its policyholder losses for the FDWP reference period under the policyholder base calculation for each tax year:

- (d) **tax rate** is the decimal fraction that is the basic rate of income tax set out in—
- (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
  - (ii) schedule 1, part A, clause 2 if the company is a Maori authority.

Defined in this Act: amount, basic rate, FDWP reference period, income tax, Maori authority, policyholder base, policyholder FDWP ratio, policyholder income, shareholder FDWP ratio, tax year

Origin: 2004 No 35 s MG 8B(4)

### MC 34 Meaning of policyholder FDWP ratio

#### *When this section applies*

- (1) This section applies for the purposes of sections MC 20 and MC 33.

#### *Meaning*

- (2) **Policyholder FDWP ratio** means the amount calculated using the formula—

$$\frac{\text{total credits}}{\text{net result} \times (1 - \text{tax rate})}.$$

#### *Definition of items in formula*

- (3) In the formula,—
- (a) **total credits** is the total policyholder credits described in table M13: policyholder credits, row 3 (transfer from FDWP account) in an FDWP company's policyholder credit account during the FDWP reference period:
  - (b) **net result** is the amount of the company's policyholder income less the amount of policyholder net losses for the FDWP reference period under the policyholder base calculation for each tax year:
  - (c) **tax rate** is the decimal fraction that is the basic rate of income tax set out in—
    - (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
    - (ii) schedule 1, part A, clause 2 if the company is a Maori authority.

Defined in this Act: amount, basic rate, FDWP company, FDWP reference period, income tax, Maori authority, policyholder base, policyholder credit, policyholder credit account, policyholder net loss

Origin: 2004 No 35 s MG 8B(4)

## MC 35 Meaning of reduced deficit debit

### *When this section applies*

- (1) This section applies for the purposes of section MC 20.

### *Meaning*

- (2) **Reduced deficit debit** means the amount calculated for a tax year using the formula—

$$\text{credit balance} + \text{credits attached} - \frac{\text{dividends} \times (\text{credits attached} + \text{credits} + \text{credit balance})}{\text{dividends} + (\text{net result} \times (1 - \text{tax rate}))}$$

### *Definition of items in formula*

- (3) In the formula,—
- (a) **credit balance** is the credit balance in an FDWP company's FDWP account at the end of the previous tax year:
  - (b) **credits attached** is the total amount of all FDWP credits attached to dividends paid by the company during the FDWP reference period:
  - (c) **dividends** is the total amount of all dividends paid by the company during the FDWP reference period:
  - (d) **credits** is the total amount of policyholder credits described in table M13: policyholder credits, row 3 (transfer from FDWP account) in the company's policyholder credit account during the FDWP reference period:
  - (e) **credit balance** is the credit balance in the company's FDWP account at the end of the previous tax year:
  - (f) **net result** is the amount of the company's policyholder income less the amount of policyholder net losses for the FDWP reference period under the policyholder base calculation for each tax year:
  - (g) **tax rate** is the decimal fraction that is the basic rate of income tax set out in—
    - (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
    - (ii) schedule 1, part A, clause 2 if the company is a Maori authority.

Defined in this Act: amount, basic rate, dividend, FDWP account, FDWP company, FDWP credit, FDWP reference period, income tax, Maori authority, policyholder base, policyholder credit, policyholder credit account, policyholder net loss, tax year

Origin: 2004 No 35 s MG 8B(4)

### **MC 36 Meaning of shareholder FDWP ratio**

#### *When this section applies*

- (1) This section applies for the purposes of sections MC 20 and MC 33.

#### *Meaning*

- (2) **Shareholder FDWP ratio** means the amount calculated using the formula—
- $$\frac{\text{credits attached}}{\text{total dividends}}$$

#### *Definition of items in formula*

- (3) In the formula,—
- (a) **credits attached** is the total amount of all FDWP credits attached to dividends paid by an FDWP company during the FDWP reference period:
- (b) **total dividends** is the total amount of all dividends paid by the company during the FDWP reference period.

Defined in this Act: amount, dividend, FDWP credit, FDWP reference period, pay

Origin: 2004 No 35 s MG 8B(4)

## **Subpart MD—Conduit tax relief accounts**

### **Contents**

#### *Introductory provisions*

- MD 1 General rules for companies with conduit tax relief accounts
- MD 2 Conduit tax relief accounts
- MD 3 Choosing to become conduit tax relief company
- MD 4 When company stops being conduit tax relief company

#### *Conduit tax relief credits*

Table M5: conduit tax relief credits

- MD 5 CTRA rebate for conduit tax relief
- MD 6 CTRA transfer from FDWP account
- MD 7 CTRA derivation of dividend with conduit tax relief credit
- MD 8 CTRA reduction of FDWP
- MD 9 CTRA reversal of tax advantage arrangement

#### *Conduit tax relief debits*

Table M6: conduit tax relief debits

- MD 10 CTRA payment of dividend
- MD 11 CTRA transfer to FDWP account
- MD 12 CTRA transfer to group account
- MD 13 CTRA adjustment for conduit tax relief
- MD 14 CTRA break in shareholding chain for group company
- MD 15 CTRA break in shareholding chain for company
- MD 16 CTRA increase in resident shareholding
- MD 17 CTRA breach of conduit tax relief ratio
- MD 18 CTRA tax advantage arrangement
- MD 19 CTRA final balance

#### *Conduit tax relief credits attached to dividends*

- MD 20 Conduit tax relief credits attached to dividends
- MD 21 CTRA benchmark dividend rules
- MD 22 Conduit tax relief credits and imputation credits attached to dividends



*Payment of FDWP and refunds*

- MD 23 FDWP payable for conduit tax relief debits  
MD 24 FDWP payable on qualifying amalgamation  
MD 25 Refunds on transfers to conduit tax relief account

***Introductory provisions***

**MD 1 General rules for companies with conduit tax relief accounts**

***Conduit tax relief company***

- (1) An FDWP company may choose to become a conduit tax relief company.

***Conduit tax relief account***

- (2) A conduit tax relief company must maintain a conduit tax relief account for a tax year. The account is a record of conduit tax relief credits and conduit tax relief debits that arise in the account during the tax year.

***Credits***

- (3) Credits to the account include the amount of a rebate of income tax calculated under section KH 1 (Conduit tax relief) in relation to the income tax imposed on foreign attributed income and the proportion that non-resident shareholders have to total shareholders.

***Debits***

- (4) Debits to the account include the amount of a conduit tax relief credit attached to a dividend paid to the company's non-resident shareholders.

***Refunds***

- (5) The amount of a conduit tax relief credit attached to a dividend reduces the non-resident withholding tax imposed under subpart NG (Non-resident withholding tax) in relation to the dividend.

***Group accounts***

- (6) A consolidated group of companies must maintain a group conduit tax relief account if a group company is a conduit tax relief company.

***Shareholder continuity requirement***

- (7) The carrying forward of a credit in the company's conduit tax relief account is subject to the shareholder continuity requirement in section MA 8 (Shareholder continuity requirements for memorandum accounts).

Defined in this Act: conduit tax relief account, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, consolidated group, dividend, FDWP company, foreign attributed income, income tax, non-resident, non-resident withholding tax, pay, shareholder, tax year

Origin: 2004 No 35 ss MI 2(1), (4), MI 4(1)(a), (2)(a), MI 5(3), MI 14(1), NG 9(1)(a)

## **MD 2 Conduit tax relief accounts**

### *General rules*

- (1) The general rules on memorandum accounts set out in sections MA 2 and MA 3 (which relate to the treatment of memorandum accounts) apply to the conduit tax relief account of a conduit tax relief company.

### *Credits and debits of consolidated groups*

- (2) Under section MP 71 (When credits and debits arise only in conduit tax relief group accounts), certain credits and debits do not arise in the account if the company is part of a consolidated group.

Defined in this Act: conduit tax relief account, conduit tax relief company, consolidated group, memorandum account

Origin: 2004 No 35 ss MI 2(4), MI 19(1), (5)

## **MD 3 Choosing to become conduit tax relief company**

### *Notifying Commissioner*

- (1) A company that chooses to become a conduit tax relief company must notify the Commissioner of the election no later than the day on which the company is required to file a return of income for the income year that corresponds to the tax year in which the election is made.

### *Effect of election*

- (2) A conduit tax relief company must maintain the conduit tax relief account referred to in section MD 1(2) from—
  - (a) the first day of the tax year in which the company makes the election; or
  - (b) the day the Commissioner is notified for the purposes of sections LG 1(1), MC 24, MD 20, and NH 7 (which relate to credits attached to dividends).

Defined in this Act: Commissioner, company, conduit tax relief account, conduit tax relief company, income year, notify, return of income, tax year

Origin: 2004 No 35 s MI 2(1)–(3)

#### **MD 4 When company stops being conduit tax relief company**

##### ***Election***

- (1) A company stops being a conduit tax relief company—
  - (a) by election under subsection (2); or
  - (b) when the company stops being an FDWP company under section MC 4 (When company chooses to stop being FDWP company).

##### ***When election made***

- (2) A conduit tax relief company may make an election under subsection (1)(a) only in a tax year that is later than the tax year in which the company chooses under section MD 3 to become a conduit tax relief company.

##### ***When company's status ends***

- (3) The company ends its status as a conduit tax relief company from the first day of the tax year after the tax year in which the election referred to in subsection (1)(a) is made but only if the company—
  - (a) files an annual imputation return for the year of election in the time allowed by section 71 of the Tax Administration Act 1994; and
  - (b) pays further FDWP under section MD 23 or MD 24 for the year of election.

##### ***Continuation of account***

- (4) The company must continue to maintain its conduit tax relief account to the end of the year of election.

Defined in this Act: annual imputation return, company, conduit tax relief company, FDWP company, further FDWP, tax year

Origin: 2004 No 35 s MI 2 (5), (5A), (6), (6A), (7)

## *Conduit tax relief credits*

**Table M5: conduit tax relief credits**

Row	Conduit tax relief credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Rebate for conduit tax relief</i>		
	An income tax rebate for conduit tax relief	set out in section MD 5	section MD 5
3	<i>Transfer from FDWP account</i>		
	A transfer from an FDWP account	31 March	section MD 6
4	<i>Derivation of dividend with conduit tax relief credit</i>		
	A conduit tax relief credit attached to a dividend derived	day the dividend is paid	section MD 7
5	<i>Reduction of FDWP</i>		
	A reduction of FDWP relating to proportion of non-resident shareholders	due date for payment of the FDWP	section MD 8
6	<i>Reversal of tax advantage arrangement</i>		
	The reversal of a debit for a tax advantage arrangement	debit date of the debit	section MD 9
<p><b>How to use this table</b></p> <p>Each row of the table describes—</p> <p>(a) the conduit tax relief credits that may arise in the conduit tax relief account of a conduit tax relief company during a tax year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the conduit tax relief credits and, as necessary, credit dates is contained in the section noted in the last column.</p>			

### **MD 5 CTRA rebate for conduit tax relief**

#### *Credit*

- (1) A conduit tax relief company has a conduit tax relief credit for a tax year as described in table M5: conduit tax relief credits, row 2 (rebate for conduit tax relief) for the amount of a rebate of income tax allowed to the company under section KH 1 (Conduit tax relief) for an income year corresponding to the tax year. The amount of the credit is calculated under subsection (2).

***Calculating amount of credit***

- (2) Having determined the amount of its rebate for a tax year, a conduit tax relief company must apportion that amount to calculate the amount of the credit using the formula—

$$\frac{\text{FDWP last day credit}}{\text{total FDWP credit}} \times \text{amount of rebate.}$$

***Definitions of items in formula***

- (3) In the formula,—
- (a) **FDWP last day credit** is the part of the amount of the FDWP credit arising in the company's FDWP account on the last day of the tax year under section MB 37(1) (ICA transfer for net attributed foreign income) for which the credit date is described in subsection (8)(a) of that section:
  - (b) **total FDWP credit** is the total amount described in table M3: FDWP credits, row 6 (transfer for net foreign attributed income):
  - (c) **amount of rebate** is the amount of the rebate allowed under section KH 1.

***Credit dates***

- (4) The credit date is—
- (a) the last day of the tax year corresponding with the income year for which the rebate is allowed for the amount of the credit calculated under subsection (2); and
  - (b) the day the company files its return of income for the income year for the balance of the credit.

Defined in this Act: amount, conduit tax relief company, conduit tax relief credit, FDWP account, FDWP credit, foreign attributed income, income tax, income year, rebate, return of income, tax year

Origin: 2004 No 35 s MI 4(1)(a), (2)(a)

**MD 6 CTRA transfer from FDWP account**

***Credit***

- (1) A conduit tax relief company has a conduit tax relief credit as described in table M5: conduit tax relief credits, row 3 (transfer from FDWP account) for an amount equal to the amount of a FDWP debit described in table M4: FDWP debits, row 7 (transfer to conduit tax relief account) for a transfer to the conduit tax relief account.

***Credit date***

- (2) The credit date is the last day of the tax year.

Defined in this Act: amount, conduit tax relief account, conduit tax relief company, conduit tax relief credit, FDWP account, FDWP debit, tax year

Origin: 2004 No 35 ss MI 4(1)(e), (2)(e), MI 6(1)

#### **MD 7 CTRA derivation of dividend with conduit tax relief credit**

##### *Credit*

- (1) A conduit tax relief company has a conduit tax relief credit as described in table M5: conduit tax relief credits, row 4 (derivation of dividend with conduit tax relief credit) for the amount of a conduit tax relief credit attached to a dividend derived by the company.

##### *Credit date*

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, conduit tax relief company, conduit tax relief credit, dividend, pay

Origin: 2004 No 35 s MI 4(1)(c), (2)(c)

#### **MD 8 CTRA reduction of FDWP**

##### *Credit*

- (1) A conduit tax relief company has a conduit tax relief credit as described in table M5: conduit tax relief credits, row 5 (reduction of FDWP) for the amount of a reduction of FDWP allowed to the company under section NH 7 (Reduction in liability under conduit tax relief) for a dividend derived during the tax year.

##### *Credit date*

- (2) The credit date is the due date for payment of FDWP under section NH 7.

Defined in this Act: amount, conduit tax relief company, conduit tax relief credit, dividend, FDWP, pay, tax year

Origin: 2004 No 35 s MI 4(1)(b), (2)(b)

#### **MD 9 CTRA reversal of tax advantage arrangement**

##### *Credit*

- (1) A conduit tax relief company has a conduit tax relief credit as described in table M5: conduit tax relief credits, row 6 (reversal of tax advantage arrangement) for an amount that equals the amount of the debit in the company's conduit tax relief account described in table M6: conduit tax relief debits, row 10 (tax advantage arrangement).

***Credit date***

- (2) The credit date is the same as the debit date for the debit.

Defined in this Act: amount, arrangement, company, conduit tax relief account, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, tax advantage

Origin: 2004 No 35 s MI 4(1)(d), (2)(d)

***Conduit tax relief debits***

**Table M6: conduit tax relief debits**

Row	Conduit tax relief debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of dividend</i>		
	An FDWP credit attached to a dividend paid	day of payment	section MD 10
3	<i>Transfer to FDWP account</i>		
	A transfer to a company's FDWP account for a closing debit balance in the FDWP account	31 March	section MD 11
4	<i>Transfer to group account</i>		
	A transfer of a credit to a group conduit tax relief account	day of transfer	section MD 12
5	<i>Adjustment for conduit tax relief</i>		
	An adjustment for conduit tax relief	day the return of income with the adjustment is filed	section MD 13
6	<i>Chain break for group company</i>		
	Shareholding chain broken when a non-resident shareholder disposes of shares	when the shareholding stops	section MD 14
7	<i>Chain break when group membership stops</i>		
	Chain break when a company stops being part of a consolidated group	when the group relationship stops	section MD 15
8	<i>Increase in resident shareholding</i>		
	An increase in resident shareholding by 34% or more	day of shareholding change	section MD 16
9	<i>Breach of conduit tax relief ratio</i>		
	A debit for breach of a conduit tax relief ratio	31 March	section MD 17

10	<i>Tax advantage arrangement</i>		
	A debit for tax advantage arrangement	last day of the tax year in which the arrangement began	section MD 18
11	<i>Final balance</i>		
	A final balance when a conduit tax relief company status ends	day of cessation	section MD 19
<p><b>How to use this table</b></p> <p>Each row of the table describes—</p> <p>(a) the conduit tax relief debits that may arise in the conduit tax relief account of a conduit tax relief company during a tax year; and</p> <p>(b) the debit date when the debit arises.</p> <p>A more detailed description of the conduit tax relief debits is contained in the section noted in the last column.</p>			

### MD 10 CTRA payment of dividend

#### *Debit*

- (1) A conduit tax relief company has a conduit tax relief debit as described in table M6: conduit tax relief debits, row 2 (payment of dividend) for the amount of a conduit tax relief credit attached to a dividend paid by the company.

#### *Debit date*

- (2) The debit date is the day of payment.

Defined in this Act: amount, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, dividend, pay

Origin: 2004 No 35 s MI 5(1)(a), (2)(a)

### MD 11 CTRA transfer to FDWP account

#### *Debit*

- (1) A conduit tax relief company has a conduit tax relief debit as described in table M6: conduit tax relief debits, row 3 (transfer to FDWP account) for an amount transferred when a credit balance in the company's conduit tax relief account is treated under subsections (2) and (3) as transferred to the company's FDWP account. The amount of the debit is the smaller of the credit balance and debit balance as set out in subsection (2).



***When debit arises***

- (2) The debit for the transfer described in subsection (1) arises when—
- (a) a credit balance exists in the company's conduit tax relief account just before the end of the tax year; and
  - (b) a debit balance exists in the company's FDWP account just before the end of the tax year.

***Finding balances***

- (3) For the purposes of subsection (2),—
- (a) the credit balance in the conduit tax relief account is found by including a conduit tax relief credit described in table M5: conduit tax relief credits, row 2 (rebate for conduit tax relief) when the credit date for the credit is the last day of the tax year; and
  - (b) the debit balance in the FDWP account is found by including an FDWP credit described in table M3: FDWP credits, row 6 (transfer for net foreign attributed income) for the tax year; and
  - (c) the credit balance and the debit balance are determined just before the transfer under subsection (1) is made.

***Amount of debit and credit***

- (4) The smaller of the credit balance and the debit balance becomes—
- (a) a conduit tax relief debit described in table M6: conduit tax relief debits, row 3 (transfer to FDWP account);
  - (b) a FDWP credit described in table M3: FDWP credits, row 5 (payment of FDWP for transfer from conduit account).

***Debit date***

- (5) The debit date is the last day of the tax year.

Defined in this Act: amount, conduit tax relief account, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, FDWP account, FDWP credit, foreign attributed income, tax year

Origin: 2004 No 35 ss MI 5(1)(i), (2)(h), MI 6(2)

**MD 12 CTRA transfer to group account**

***Debit***

- (1) A conduit tax relief company has a conduit tax relief debit as described in table M6: conduit tax relief debits, row 4 (transfer to group account) for an amount equal to the amount of a conduit tax relief credit described in table M23: conduit tax relief credits of consolidated groups, row 5 (group company's credit) for a transfer

of a credit to the conduit tax relief account of the consolidated group of which the company is part.

***Debit date***

- (2) The debit date is the day of transfer.

Defined in this Act: amount, conduit tax relief account, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, consolidated group

Origin: 2004 No 35 s MI 5(1)(j), (2)(i)

**MD 13 CTRA adjustment for conduit tax relief**

***Debit***

- (1) A conduit tax relief company has a conduit tax relief debit as described in table M6: conduit tax relief debits, row 5 (adjustment for conduit tax relief) for the amount of an adjustment under section FH 8(5) (Rules for applying surplus group excess interest allocation amount to increase income tax and dividend withholding payment).

***Debit date***

- (2) The debit date is the day the company files a return of income for the tax year corresponding to the income year in which the adjustment occurred.

Defined in this Act: amount, conduit tax relief account, conduit tax relief company, conduit tax relief debit, return of income

Origin: 2004 No 35 s MI 5(1)(b), (2)(b)

**MD 14 CTRA break in shareholding chain for group company**

***Debit***

- (1) A conduit tax relief company that is part of a consolidated group has a conduit tax relief debit as described in table M6: conduit tax relief debits, row 6 (chain break for group company) for an amount arising in the circumstances described in subsections (2) and (3).

***When debit arises***

- (2) A debit under subsection (1) arises when—
- (a) a credit has arisen in the company's conduit tax relief account described in either of the following rows of table M5: conduit tax relief credits:
    - (i) row 2 (rebate for conduit tax relief);
    - (ii) row 5 (reduction of FDWP); and
  - (b) the credit has not been cancelled by a later debit; and

- (c) sections OE 7 and OE 8(3)(b) (which relate to the residence of conduit tax relief companies and their shareholders) have enabled the credit to arise by treating a conduit tax relief group company as a non-resident; and
- (d) the group company is no longer a conduit tax relief group company because the requirements of section OE 7(3)(c) are no longer met.

***Cancellation***

- (3) To determine whether the credit has been cancelled by a later debit as described in subsection (2)(b),—
  - (a) credits retain their separate character and are not treated as part of a credit for an opening credit balance under section MA 7 (Opening balances of memorandum accounts); and
  - (b) a debit is counted only once in the cancellation of a credit; and
  - (c) debits cancel credits in the order in which the credits arise.

***Amount of debit***

- (4) The amount of the debit is the residual amount after taking into account the amount of any cancellation.

***Residence***

- (5) The residence of companies for the purposes of this section is determined under sections OE 7 and OE 8.

***Debit date***

- (6) The debit date is the day the shareholding chain is broken.

Defined in this Act: amount, company, conduit tax relief account, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, consolidated group, FDWP, non-resident, shareholder

Origin: 2004 No 35 s MI 5(1)(f), (2)(f), (5), (7)

**MD 15 CTRA break in shareholding chain for company**

***Debit***

- (1) A conduit tax relief company that is part of a consolidated group has a conduit tax relief debit as described in table M6: conduit tax relief debits, row 7 (chain break when group membership stops) for an amount arising in the circumstances described in subsections (2) and (3).

***When debit arises***

- (2) The debit arises when—
  - (a) the company derives a dividend from another company in the same group and the dividend gives rise to a credit described in table M5: conduit tax relief credits, row 4 (derivation of dividend with conduit tax relief credit) in the company's account; and

- (b) the other company is in the same group when the dividend is derived; and
- (c) the credit has not been cancelled by a later debit; and
- (d) the company is no longer part of the group because the requirements in section OE 7(3)(c) (Conduit tax relief holding companies and group members) are no longer met.

***Cancellation***

- (3) To determine whether a credit has been cancelled by a later debit under subsection (2)(c),—
  - (a) credits retain their separate character and are not treated as part of a credit for an opening credit balance under section MA 7 (Opening balances of memorandum accounts); and
  - (b) a debit is counted only once in the cancellation of a credit; and
  - (c) debits cancel credits in the order in which the credits arise.

***Amount of debit***

- (4) The amount of the debit is the residual amount after taking into account the amount of any cancellation.

***Debit date***

- (5) The debit date is the day just before the company stops being part of the group.

Defined in this Act: amount, company, conduit tax relief account, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, dividend, pay

Origin: 2004 No 35 s MI 5(1)(g), (2)(f), (5)

**MD 16 CTRA increase in resident shareholding**

***Debit***

- (1) A conduit tax relief company has a conduit tax relief debit as described in table M6: conduit tax relief debits, row 8 (increase in resident shareholding) for an amount of a conduit tax relief credit in the company's conduit tax relief account if a breach in the resident shareholding requirements described in subsection (2) and section MA 8 (Shareholder continuity requirements for memorandum accounts) occurs.

***Resident shareholding requirement***

- (2) For the purposes of subsection (1), the resident shareholding requirements mean that—
  - (a) the credit continues to exist to the extent to which it is not reduced by a later conduit tax relief debit; and

- (b) since the credit date for the credit, the percentage of the company's shareholders who are resident in New Zealand does not increase by 34% or more; and
- (c) an amount that is the conduit tax relief debit under subsection (1) arises for an amount of the credit that still exists when paragraph (b) is breached.

***Supporting rules***

- (3) The following rules apply for the purposes of subsection (2):
  - (a) the percentage of shareholders resident in New Zealand at any time is found by taking—
    - (i) the highest percentage of direct voting interests held in the company by residents; and
    - (ii) the highest percentage of direct market value interests held in the company, if a direct market value circumstance exists, by residents; and
    - (iii) if not all shares in the company are shares of the same class, the highest percentage of total dividends that would be derived by residents if the company were liquidated; and
  - (b) a credit retains its separate character and is not treated as part of a credit described in section MA 7 (Opening balances of memorandum accounts) in a later tax year; and
  - (c) the amount by which a credit is reduced by an earlier or later debit is found by—
    - (i) treating debits as reducing credits in the order in which the credits arise; and
    - (ii) counting a debit, whether some or all, only once in the reduction of a credit; and
  - (d) no breach of subsection (2)(b) occurs if the increase in shareholders resident in New Zealand is solely because the requirements of section OE 7(1)(c) (Conduit tax relief holding companies and group members) are not met; and
  - (e) a debit still arises despite an arrangement affecting the company's shares that has a purpose or effect of defeating the intent and application of the resident shareholding requirements.

***Debit date***

- (4) The debit date is the day on which the shareholding threshold is first reached or passed.

Defined in this Act: amount, arrangement, company, conduit tax relief account, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, dividend, market value circumstance, market value interest, resident in New Zealand, shareholder, shares of the same class, voting interest, tax year

Origin: 2004 No 35 s MI 5(1)(e), (2)(e), (3)-(6)

## MD 17 CTRA breach of conduit tax relief ratio

### *Debit*

- (1) A conduit tax relief company has a conduit tax relief debit for a tax year as described in table M6: conduit tax relief debits, row 9 (breach of conduit tax relief ratio) for a breach of the benchmark dividend rules in section MD 21 for an amount calculated using the formula—

$$(\text{net dividends} \times \text{conduit tax relief ratio}) - \text{credits attached.}$$

### *Definition of items in formula*

- (2) In the formula,—
- (a) **net dividends** is the total amount of all dividends paid by the company during the tax year, excluding imputation credits and conduit tax relief credits attached to the dividends:
  - (b) **conduit tax relief ratio** is the maximum conduit tax relief ratio or, if less, the greatest conduit tax relief ratio of a dividend paid by the company during the tax year:
  - (c) **credits attached** is the amount of all conduit tax relief credits attached to dividends paid by the company during the tax year.

### *No FDWP debit*

- (3) If a conduit tax relief company has a debit under this section, no debit arises for the amount in the company's FDWP account.

### *Ratio change declaration*

- (4) A debit under subsection (1) does not arise if the conduit tax relief company provides a ratio change declaration under section MD 21(6).

### *Debit date*

- (5) The debit date is the last day of the tax year in which the breach occurred.

Defined in this Act: amount, benchmark dividend, company, conduit tax relief account, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, conduit tax relief ratio, dividend, FDWP account, imputation credit, tax year

Origin: 2004 No 35 ss MG 8(4), MI 5(1)(c), (2)(c)

## MD 18 CTRA tax advantage arrangement

### *Debit*

- (1) A conduit tax relief company has a conduit tax relief debit as described in table M6: conduit tax relief debits, row 10 (tax advantage arrangement) for the amount of a debit for a tax advantage arrangement determined under section GC 22 (Imputation: arrangement to obtain tax advantage).

***Debit date***

- (2) The debit date is the last day of the tax year in which the tax advantage arrangement began.

Defined in this Act: amount, arrangement, conduit tax relief company, conduit tax relief debit, tax advantage, tax year

Origin: 2004 No 35 s MI 5(1)(d), (2)(d)

**MD 19 CTRA final balance**

***Debit***

- (1) A conduit tax relief company has a conduit tax relief debit as described in table M6: conduit tax relief debits, row 11 (final balance) for a credit balance in the account when the company stops being a conduit tax relief company.

***Debit date***

- (2) The debit date is the day just before the company stops being a conduit tax relief company.

Defined in this Act: conduit tax relief company, conduit tax relief debit

Origin: 2004 No 35 s MI 5(1)(h)

***Conduit tax relief credits attached to dividends***

**MD 20 Conduit tax relief credits attached to dividends**

***Attaching conduit tax relief credits***

- (1) When a conduit tax relief company pays a dividend to a non-resident shareholder, it may attach a conduit tax relief credit to the dividend. Subsection (2) overrides this subsection.

***Dividends of producer boards and co-operative companies***

- (2) Subsection (1) does not apply to a dividend with a conduit tax relief credit attached that is subject to an election by—
- (a) a statutory producer board under sections MB 66 to MB 68 (which relate to producer boards' notional distributions); and
  - (b) a co-operative company under sections MB 71 to MB 73 (which relate to co-operative companies' notional distributions).

***Conduit tax relief ratio for dividend***

- (3) A dividend with a conduit tax relief credit attached has a conduit tax relief ratio calculated using the formula—

$$\frac{\text{conduit tax relief credits}}{\text{net dividends.}}$$

***Definition of items in formula***

- (4) In the formula in subsection (3),—
- (a) **conduit tax relief credits** is the amount of the conduit tax relief credit the company attaches to the dividend:
  - (b) **net dividends** is the amount of the dividend paid, excluding the amount of imputation credit and conduit tax relief credit.

***Maximum permitted ratio***

- (5) A conduit tax relief credit attached to a dividend must not be more than the maximum conduit tax relief ratio which is calculated using the formula—

$$\frac{\text{tax rate}}{(1 - \text{tax rate}).}$$

***Definition of item in formula***

- (6) In the formula in subsection (5), **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year corresponding to the tax year in which the dividend is paid.

***Residence***

- (7) Residence for the purposes of this section is ascertained under sections OE 7 and OE 8 (which relate to the residence of conduit tax relief companies).

Defined in this Act: amount, basic rate, company, conduit tax relief company, conduit tax relief credit, conduit tax relief ratio, co-operative company, dividend, imputation credit, income tax, income year, non-resident, pay, shareholder, statutory producer board, tax year

Origin: 2004 No 35 ss MG 8(1), (8), MI 8(1)

**MD 21 CTRA benchmark dividend rules**

***When this section applies***

- (1) This section applies when a conduit tax relief company pays a dividend on more than 1 occasion during a tax year. Subsection (2) overrides this subsection.



***Exclusions***

- (2) This section does not apply to a dividend with a conduit tax relief credit attached that is subject to an election by—
- (a) a statutory producer board under sections MB 66 to MB 68 (which relate to producer boards' notional distributions); and
  - (b) a co-operative company under sections MB 71 to MB 73 (which relate to co-operative companies' notional distributions).

***Benchmark dividend***

- (3) The first dividend of the tax year is the benchmark dividend.

***Same conduit tax relief ratio***

- (4) The conduit tax relief ratio of a dividend paid after the benchmark dividend must be the same as the conduit tax relief ratio of the benchmark dividend.

***Debit for breach of conduit tax relief ratio***

- (5) A breach of subsection (4) gives rise to a conduit tax relief debit described in table M6: conduit tax relief debits, row 9 (breach of conduit tax relief ratio) for an amount calculated using the formula in section MD 17(1).

***Ratio change declaration***

- (6) To prevent the consequences of a breach of subsection (4), a conduit tax relief company may notify the Commissioner that the dividend is not part of an arrangement to obtain a tax advantage by providing a ratio change declaration stating that the dividend is not part of an arrangement to which section GC 22 (Imputation: arrangement to obtain tax advantage) applies. The company must provide the declaration before the dividend is paid, or by a later date if the Commissioner allows. For the purposes of this subsection, the dividend must not be part of an arrangement to obtain a tax advantage.

***Consolidated group***

- (7) This section applies, modified as necessary, to a consolidated group as if it were a single company.

***Group debit***

- (8) Under section MP 84 (Consolidated CTRA breach of conduit tax relief ratio), a breach of a conduit tax relief ratio alternatively gives rise to a conduit tax relief debit described in table M24: conduit tax relief debits of consolidated groups, row 7 (breach of conduit tax relief ratio) if the company is part of a consolidated group.

***Treatment of group dividends***

- (9) In the application of this section to a consolidated group, a dividend paid between group companies is disregarded.

Defined in this Act: amount, arrangement, benchmark dividend, Commissioner, company, conduit tax relief company, conduit tax relief credit, conduit tax relief debit, conduit tax relief ratio, consolidated group, co-operative company, dividend, statutory producer board, tax advantage, tax year

Origin: 2004 No 35 ss MG 8(2), (3), (8), MI 8, MI 22(1)

## **MD 22 Conduit tax relief credits and imputation credits attached to dividends**

### *Attaching combined credits*

- (1) When a conduit tax relief company pays a dividend, it may attach both a conduit tax relief credit and an imputation credit to the dividend.

### *Combined ratio*

- (2) A dividend with combined credits attached has a combined imputation and conduit tax relief ratio calculated using the formula—

$$\frac{\text{combined credits}}{\text{net dividends.}}$$

### *Definition of items in formula*

- (3) In the formula in subsection (2),—
- (a) **combined credits** is the total amount of conduit tax relief credit and imputation credit attached to the dividend:
- (b) **net dividends** is the amount of the dividend paid, excluding the amount of conduit tax relief credit and imputation credit.

### *Maximum permitted ratio*

- (4) A dividend with combined credits attached must not have a combined imputation and conduit tax relief ratio that is more than the maximum ratio calculated using the formula—

$$\frac{\text{tax rate}}{(1 - \text{tax rate})}.$$

### *Definition of item in formula*

- (5) In the formula in subsection (4), **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year corresponding to the tax year in which the dividend is paid.

### *Combined ratio breach*

- (6) A breach of the maximum ratio set out in subsection (4) gives rise to an excess credit amount that is calculated using the formula—

$$\text{net dividends} \times (\text{combined ratio} - \text{maximum ratio}).$$

### *Definition of items in formula*

- (7) In the formula in subsection (6),—
- (a) **net dividends** is the amount of the dividend paid, excluding the amount of conduit tax relief credit and imputation credit:

- (b) **combined ratio** is the combined imputation and conduit tax relief ratio of the dividend:
- (c) **maximum ratio** is the maximum combined imputation and conduit tax relief ratio permitted under subsection (4).

Defined in this Act: amount, basic rate, combined imputation and conduit tax relief ratio, company, conduit tax relief company, conduit tax relief credit, dividend, excess credit amount, imputation credit, income tax, pay, tax year

Origin: 2004 No 35 ss MG 10, MI 8(1), MI 10

### *Payment of FDWP and refunds*

#### **MD 23 FDWP payable for conduit tax relief debits**

##### *Liability*

- (1) A conduit tax relief company is liable to pay FDWP for the amount of a conduit tax relief debit described in subsection (2) that arises in the company's conduit tax relief account during a tax year.

##### *The debits*

- (2) A debit referred to in subsection (1) is a debit described in 1 of the following rows of table M6: conduit tax relief debits:
  - (a) row 3 (transfer to FDWP account):
  - (b) row 6 (chain break for group company):
  - (c) row 7 (chain break when group membership stops):
  - (d) row 8 (increase in resident shareholding):
  - (e) row 9 (breach of conduit tax relief ratio):
  - (f) row 10 (tax advantage arrangement):
  - (g) row 11 (final balance).

##### *NO FDWP credit*

- (3) No credit to the company's FDWP account arises for the debits set out in subsection (2)(d) to (f).

##### *Payment date*

- (4) The company must pay the FDWP to the Commissioner no later than—
  - (a) the 20th of the month following the end of the quarter in which the debits arise when the FDWP is payable for the debits set out in subsection (2)(b) to (g); or
  - (b) 20 June following the end of the tax year when the FDWP is payable for the debit set out in subsection (2)(a).

***Application of other provisions***

- (5) When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—
- (a) apply as if they addressed FDWP and not income tax; and
  - (b) apply, modified as necessary, to ensure their application to FDWP rather than income tax; and
  - (c) do not override the FDWP rules or section 103A of the Tax Administration Act 1994.

Defined in this Act: amount, arrangement, Commissioner, company, conduit tax relief account, conduit tax relief company, conduit tax relief debit, conduit tax relief ratio, FDWP, FDWP account, FDWP credit, FDWP rules, further FDWP, income tax, pay, resident, tax advantage, tax year

Origin: 2004 No 35 s MI 10

**MD 24 FDWP payable on qualifying amalgamation**

***Liability***

- (1) An amalgamated company that is not a conduit tax relief company is liable to pay FDWP for the amount of an imputation credit that arises in the company's imputation credit account under section MA 12 (Conduit tax relief account on qualifying amalgamation).

***Due date***

- (2) The due date for payment of the FDWP to the Commissioner is the 20th of the month following the end of the quarter in which the qualifying amalgamation occurred.

***No credit***

- (3) The payment of the FDWP does not give rise to a credit in the company's imputation credit account or FDWP account.

Defined in this Act: amalgamated company, amount, conduit tax relief company, Commissioner, FDWP, FDWP account, imputation credit, imputation credit account, qualifying amalgamation, pay

Origin: 2004 No 35 s MI 13(7)

**MD 25 Refunds on transfers to conduit tax relief account**

***Refund***

- (1) A conduit tax relief company has a refund for the amount of a conduit tax relief credit described in table M5: conduit tax relief credits, row 3 (transfer from FDWP account) in the company's conduit tax relief account.

*Application of refund*

- (2) The Commissioner may apply the refund to satisfy an amount owing by the company to the Commissioner. This subsection overrides subpart MD (Refunds) of the Income Tax Act 2004.

Defined in this Act: amount, Commissioner, conduit tax relief account, conduit tax relief company, conduit tax relief credit

Origin: 2004 No 35 s MI 11

## **Subpart ME—Branch equivalent tax accounts**

### **Contents**

#### *Introductory provision*

ME 1 General rules for companies and other persons with branch equivalent tax accounts

#### *Companies with branch equivalent tax accounts*

##### *Introductory provisions*

ME 2 Branch equivalent tax accounts of companies

ME 3 Choosing to become BETA company

ME 4 When company stops being BETA company

ME 5 Treatment of attributed CFC income and FIF income in this subpart

##### *Branch equivalent tax credits*

Table M7: branch equivalent tax credits

ME 6 BETA payment of income tax on foreign income

ME 7 BETA payment of income tax

ME 8 BETA remaining debit balances

ME 9 BETA refund of FDWP

ME 10 BETA credit for loss of shareholder continuity

ME 11 BETA final balance

##### *Branch equivalent tax debits*

Table M8: branch equivalent tax debits

ME 12 BETA payment of FDWP

ME 13 BETA reduction in FDWP

ME 14 BETA refund of income tax

ME 15 BETA debit for loss of shareholder continuity

ME 16 BETA final balance

#### *Persons with branch equivalent tax accounts*

##### *Introductory provisions*

ME 17 Person choosing to become BETA person

ME 18 When person stops being BETA person

*Branch equivalent tax credits*

Table M9: person's branch equivalent tax credits

ME 19 BETA person's payment of income tax on foreign income

*Branch equivalent tax debits*

Table M10: person's branch equivalent tax debits

ME 20 BETA person's payment of income tax

ME 21 BETA person's refund of income tax

ME 22 BETA person's final balance

### ***Introductory provision***

#### **ME 1 General rules for companies and other persons with branch equivalent tax accounts**

***BETA company***

- (1) A company resident in New Zealand may choose to be a branch equivalent tax account company. In this Part, the company is called a **BETA company**.

***BETA person***

- (2) A person resident in New Zealand who is not a company may choose to have a branch equivalent tax account. In this Part, the person is called a **BETA person**.

***General rules***

- (3) The general rules on memorandum accounts set out in sections MA 2 and MA 3 (which relate to the treatment of memorandum accounts) apply to the branch equivalent tax account of a BETA company.

***References to tax year and income year for person***

- (4) Sections MA 2 and MA 3 apply to a BETA person as if references in those sections to a tax year were references to an income year.

Defined in this Act: company, BETA company, BETA person, branch equivalent tax account, income year, memorandum account, resident in New Zealand, tax year

Origin: 2004 No 35 ss MF 1(1), MF 11(1)

## *Companies with branch equivalent tax accounts*

### *Introductory provisions*

#### **ME 2 Branch equivalent tax accounts of companies**

##### *Accounts*

- (1) A BETA company must maintain a branch equivalent tax account for a tax year. The account is a record of branch equivalent tax credits and branch equivalent tax debits that arise in the account during the tax year.

##### *Credits*

- (2) Credits to the account may include a credit for an amount of income tax payable on foreign attributed income.

##### *Debits*

- (3) Debits to the account may include a debit for an amount of FDWP paid on a dividend derived from a CFC.

##### *Consolidated groups*

- (4) A consolidated group has a branch equivalent tax account if a group company is a BETA company, or if the group chooses to have the account.

##### *Group credits and debits*

- (5) Certain credits and debits arise in the branch equivalent tax account of a consolidated group and not in the account of a group company.

##### *Shareholder continuity requirement*

- (6) The carrying forward of a credit or a debit in the company's conduit tax relief account is subject to the shareholder continuity requirement in section MA 8 (Shareholder continuity requirements for memorandum accounts).

Defined in this Act: amount, BETA company, branch equivalent tax account, CFC, consolidated group, dividend, FDWP, income tax, pay, tax year

Origin: 2004 No 35 ss MF 1(3), MF 4(1)(a), (3)(a), (5), MF 7(1)(a), MF 9

#### **ME 3 Choosing to become BETA company**

##### *Election*

- (1) A company may choose to become a BETA company for a tax year—
  - (a) at any time during the tax year; or
  - (b) no later than the day on which the company is required to file a return of income for the tax year; or



- (c) a later time if the Commissioner allows.

***Notifying Commissioner***

- (2) The company must notify the Commissioner of an election under subsection (1)—
  - (a) no later than 21 days after the date of the election; or
  - (b) by a later time if the Commissioner allows.

***Effect of election***

- (3) A BETA company must maintain a branch equivalent tax account referred to in section ME 2(1) from the first day of the tax year in which the company makes the election.

Defined in this Act: BETA company, branch equivalent tax account, Commissioner, company, income year, return of income, tax year

Origin: 2004 No 35 s MF 1(1), (2)

**ME 4 When company stops being BETA company**

***Election***

- (1) A BETA company may choose to stop being a BETA company only in a tax year that is later than the tax year in which the company chooses under section ME 3 to become a BETA company.

***When company's status ends***

- (2) The company ends its status as a BETA company from the first day of the tax year in which it makes the election but only if it files an annual imputation return for the year of election in the time allowed by section 71 of the Tax Administration Act 1994.

Defined in this Act: annual imputation return, BETA company, tax year

Origin: 2004 No 35 s MF 1(4), (5)

**ME 5 Treatment of attributed CFC income and FIF income in this subpart**

This subpart applies to a person with an attributing interest in a FIF by treating—

- (a) FIF income derived from the person's interest as attributed CFC income, if the FIF income is calculated—
  - (i) under the accounting profits method or the branch equivalent method; or
  - (ii) under a method to which section EX 43(6) or EX 46 (which relate to methods to calculate FIF income) applies; and

- (b) the fund as a CFC; and
- (c) the interest as an income interest.

Defined in this Act: accounting profits method, attributed CFC income, attributing interest, branch equivalent method, CFC, FIF, FIF income, income interest

Origin: 2004 No 35 s MF 15

*Branch equivalent tax credits*

**Table M7: branch equivalent tax credits**

Row	Branch equivalent tax credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Income tax on foreign income</i>		
	Income tax on foreign income derived in an income year	day the return of income is filed	section ME 6
3	<i>Payment of income tax</i>		
	A debit balance applied to satisfy an income tax liability	day of election	section ME 7
4	<i>Refund of FDWP</i>		
	A refund of FDWP	day of refund	section ME 9
5	<i>Credit for loss of shareholder continuity</i>		
	A credit for loss of shareholder continuity	day of loss of continuity	section ME 10
6	<i>Final balance</i>		
	A debit balance when the company stops being resident in New Zealand	day of cessation	section ME 11

**How to use this table**

Each row of the table describes—

- (a) the branch equivalent tax credits that may arise in the branch equivalent tax account of a branch equivalent tax account company during a tax year; and
- (b) the credit date when the credit arises.

A more detailed description of the branch equivalent tax credits is contained in the section noted in the last column.

**ME 6 BETA payment of income tax on foreign income**

***Credit***

- (1) A BETA company has a branch equivalent tax credit as described in table M7: branch equivalent tax credits, row 2 (income tax on foreign income) for an amount calculated using the formula—

$((\text{CFC income for year} - \text{deductions for year}) \times \text{tax rate}) - \text{foreign tax credits} - \text{debit balances}.$

***Definitions of items in formula***

- (2) In the formula,—
  - (a) **CFC income for year** is the amount of attributed CFC income derived during the income year corresponding to the tax year referred to in subsection (3):
  - (b) **deductions for year** is the total amount in the income year corresponding to the tax year referred to in subsection (3) of—
    - (i) attributed CFC loss; and
    - (ii) attributed CFC net loss; and
    - (iii) FIF loss; and
    - (iv) FIF net loss:
  - (c) **tax rate** is the decimal fraction that is the basic rate of income tax set out in, as applicable,—
    - (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
    - (ii) schedule 1, part A, clause 2 if the company is a Maori authority:
  - (d) **foreign tax credits** is the amount of foreign tax credits allowed for the income year corresponding to the tax year referred to in subsection (3) under section LC 4 or LC 5 (which relate to foreign tax credits of CFCs):
  - (e) **debit balances** is the total amount of all debit balances in a branch equivalent tax account applied to satisfy the company's income tax liability for the income year corresponding to the tax year referred to in subsection (3).

***Credit date***

- (3) The credit date is the day the company files the return of income for the tax year.

Defined in this Act: amount, attributed CFC loss, attributed CFC net loss, basic rate, BETA company, branch equivalent tax account, branch equivalent tax credit, FIF loss, FIF net loss, foreign tax, income tax, income tax liability, income year, Maori authority

Origin: 2004 No 35 s MF 4(1)(a)

**ME 7 BETA payment of income tax**

***When this section applies***

- (1) This section applies when—
- (a) a BETA company has a debit balance in its branch equivalent tax account; and
  - (b) the income of the company includes an amount of attributed CFC income; and
  - (c) an amount of FDWP that gives rise to a debit included in the debit balance has been paid—
    - (i) directly; or
    - (ii) by reducing a net loss; or
    - (iii) to reduce an FDWP liability under section NH 7 (Reduction in liability under conduit tax relief).

***Group companies***

- (2) This section also applies in relation to a BETA company if another company (**company B**) that is part of the same consolidated group has a debit balance in its branch equivalent tax account that arises in the circumstances set out in subsection (1).

***Election***

- (3) The company or company B may choose to apply some or all of the debit balance under section BC 9 (Satisfaction of income tax liability) to satisfy an income tax liability in relation to the attributed CFC income. The election is made by recording a credit in the branch equivalent tax account with the debit balance.

***Credit***

- (4) The amount that is applied to satisfy the income tax liability is a branch equivalent tax credit described in table M7: branch equivalent tax credits, row 3 (payment of income tax) in the company's branch equivalent tax account.

***Income tax paid***

- (5) For the purposes of this section, the income tax liability —
- (a) is calculated by applying the formula in section ME 6(1) on the basis that the item “debit balances” is zero:

- (b) is satisfied to the extent to which the liability is not more than the income tax payable in relation to the amount of the attributed CFC income.

*Credit date*

- (6) The credit date is the day of election.

Defined in this Act: amount, attributed CFC income, BETA company, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, consolidated group, dividend, FDWP, income, income interest, income tax, income tax liability, income year, net loss, pay, tax year

Origin: 2004 No 35 ss MF 4(1)(c), MF 5(4)–(7)

**ME 8 BETA remaining debit balances**

*When this section applies*

- (1) This section applies for the purposes of section ME 7 when an income tax liability of a BETA company is satisfied by applying a debit balance in the company's branch equivalent tax account, or in the account of another company in the same consolidated group, and a debit balance remains after the credit is recorded in the account.

*Conversion to net loss*

- (2) The residue of the debit balance is converted into a net loss for the purposes of subparts IE, IF, and IG (which relate to the treatment of net losses). The amount of the net loss is calculated using the formula—

$$\frac{\text{balance}}{\text{tax rate.}}$$

*Definitions of items in formula*

- (3) In the formula,—
- (a) **balance** is the amount of the debit balance remaining in the branch equivalent tax account:
- (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in, as applicable,—
- (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
- (ii) schedule 1, part A, clause 2 if the company is a Maori authority.

*Company's net loss*

- (4) The company that has the net loss is the company whose income tax liability is satisfied as described in section MF 7(3).

Defined in this Act: amount, attributed CFC income, basic rate, BETA company, branch equivalent tax account, branch equivalent tax debit, consolidated group, income tax, income tax liability, Maori authority, net loss, pay

Origin: 2004 No 35 ss MF 4(1)(c), MF 5(4)-(7)

## **ME 9 BETA refund of FDWP**

### ***Credit***

- (1) A BETA company has a branch equivalent tax credit as described in table M7: branch equivalent tax credits, row 4 (refund of FDWP) for the amount of a refund of FDWP paid to the company. Subsections (2) and (3) override this subsection.

### ***Refund giving rise to debit***

- (2) A refund under subsection (1) must be a refund of a payment of FDWP that gave rise to a debit described in table M8: branch equivalent tax debits, row 2 (payment of FDWP).

### ***Reduction***

- (3) The amount of the credit under subsection (1) is reduced to the extent to which—
- (a) the payment of FDWP is made before a branch equivalent tax credit arises as described in table M7: branch equivalent tax credits, row 5 (credit for loss of shareholder continuity) in the company's branch equivalent tax account; and
  - (b) the amount of the refund is not more than the amount of the credit for loss of shareholder continuity.

### ***Credit date***

- (4) The credit date is the day the refund is made.

Defined in this Act: BETA company, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, FDWP, pay, shareholder

Origin: 2004 No 35 s MF 4(1)(d)

## **ME 10 BETA credit for loss of shareholder continuity**

### ***Credit***

- (1) A BETA company has a branch equivalent tax credit as described in table M7: branch equivalent tax credits, row 5 (credit for loss of shareholder continuity) for the amount of a branch equivalent tax account debit retained in the branch equivalent tax account and unused before the date of breach in shareholder continuity.

### ***Credit date***

- (2) The credit date is the day of loss of continuity.

Defined in this Act: amount, BETA company, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, shareholder

Origin: 2004 No 35 s MF 4(1)(e), (5), (6)

### ME 11 BETA final balance

#### *Credit*

- (1) A BETA company has a branch equivalent tax credit as described in table M7: branch equivalent tax credits, row 6 (final balance) for a debit balance in the branch equivalent tax account when the company stops being resident in New Zealand.

#### *Credit date*

- (2) The credit date is the day the company stops being a BETA company.

Defined in this Act: BETA company, branch equivalent tax account, branch equivalent tax credit, resident in New Zealand

Origin: 2004 No 35 s MF 4(1)(f)

### *Branch equivalent tax debits*

**Table M8: branch equivalent tax debits**

Row	Branch equivalent tax debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of FDWP</i>		
	FDWP paid on a dividend derived from a controlled foreign company	day of payment	section ME 12
3	<i>Reduction of FDWP</i>		
	A credit balance applied to satisfy an FDWP liability	due date for the FDWP	section ME 13
4	<i>Refund of income tax</i>		
	A refund of income tax for attributed CFC income	day of refund	section ME 14

5	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity	day of loss of continuity	section ME 15
6	<i>Final balance</i>		
	A credit balance when New Zealand residence ceases	day of cessation	section ME 16
<p><b>How to use this table</b>  Each row of the table describes—</p> <p>(a) the branch equivalent tax debits that may arise in the branch equivalent tax account of a branch equivalent tax account company during a tax year; and</p> <p>(b) the debit date when the debit arises.</p> <p>A more detailed description of the branch equivalent tax debits is contained in the section noted in the last column.</p>			

### **ME 12 BETA payment of FDWP**

#### ***Debit***

- (1) A BETA company has a branch equivalent tax debit as described in table M8: branch equivalent tax debits, row 2 (payment of FDWP) for the amount of a payment of FDWP that—
- (a) is calculated before a reduction of liability under section NH 7 (Reduction in liability under conduit tax relief); and
  - (b) must have been payable in relation to a dividend derived from an income interest in a CFC; and
  - (c) may have been paid to reduce a net loss.

#### ***Debit date***

- (2) The debit date is the day of payment.

Defined in this Act: amount, BETA company, branch equivalent tax account, CFC, dividend, FDWP, income interest, net loss, pay

Origin: 2004 No 35 s MF 4(3)(a)

### **ME 13 BETA reduction in FDWP**

#### ***Election***

- (1) A BETA company may choose to use some or all of a credit balance in the company's branch equivalent tax account to reduce an FDWP liability of—
- (a) the company; or
  - (b) another company that is in the same group of companies when the dividend giving rise to the liability is derived.



***Debit***

- (2) The amount of the reduction is a debit arising in the company's branch equivalent tax account as described in table M8: branch equivalent tax debits, row 3 (reduction of FDWP).

***Manner of election***

- (3) The company makes the election by recording the amount of the credit balance that is used as a debit in the account.

***Debit date***

- (4) The debit date is the due date for the payment of FDWP.

Defined in this Act: BETA company, branch equivalent tax account, branch equivalent tax debit, company, dividend, FDWP, group of companies, pay

Origin: 2004 No 35 ss MF 4(3)(b), MF 5(1)

**ME 14 BETA refund of income tax**

***Debit***

- (1) A BETA company has a branch equivalent tax debit as described in table M8: branch equivalent tax debits, row 4 (refund of income tax) for the amount of a refund of income tax that is attributable to income tax paid for an income year on attributed CFC income derived during the income year. Subsection (2) overrides this subsection.

***Reduction***

- (2) The amount of the debit is reduced to the extent to which—
- (a) a debit arises in the company's branch equivalent tax account described in table M8: branch equivalent tax debits, row 5 (debit for loss of shareholder continuity); and
  - (b) the income tax was paid before the debit date for the debit for loss of shareholder continuity.

***Debit date***

- (3) The debit date is the day the refund is made.

Defined in this Act: amount, attributed CFC income, BETA company, branch equivalent tax account, branch equivalent tax debit, income tax, pay, shareholder

Origin: 2004 No 35 s MF 4(3)(c)

### **ME 15 BETA debit for loss of shareholder continuity**

#### ***Debit***

- (1) A BETA company has a branch equivalent tax debit as described in table M8: branch equivalent tax debits, row 5 (debit for loss of shareholder continuity) for the amount of a branch equivalent tax credit retained in the branch equivalent tax account and unused before the date of breach in shareholder continuity.

#### ***Debit date***

- (2) The debit date is the day of loss of continuity.

Defined in this Act: amount, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, shareholder

Origin: 2004 No 35 s MF 4(3)(d), (5), (6)

### **ME 16 BETA final balance**

#### ***Debit***

- (1) A BETA company has a branch equivalent tax debit as described in table M8: branch equivalent tax debits, row 6 (final balance) for a credit balance in the branch equivalent tax account when the company stops being resident in New Zealand.

#### ***Debit date***

- (2) The debit date is day the company stops being resident in New Zealand.

Defined in this Act: BETA company, branch equivalent tax account, branch equivalent tax debit, resident in New Zealand

Origin: 2004 No 35 s MF 4(3)(e)

## *Persons with branch equivalent tax accounts*

### *Introductory provisions*

#### **ME 17 Person choosing to become BETA person**

##### *Election*

- (1) A person who is eligible under section ME 1(2) and who chooses to become a BETA person may make the election for an income year—
  - (a) at any time during the income year; or
  - (b) no later than the day on which the person is required to file a return of income for the income year; or
  - (c) by a later time if the Commissioner allows.

##### *Notice*

- (2) The person must notify the Commissioner of the election under subsection (1)—
  - (a) no later than 21 days after the election; or
  - (b) by a later time if the Commissioner allows.

##### *Effect of election*

- (3) A BETA person must maintain a branch equivalent tax account from the first day of the income year in which the person makes the election.

Defined in this Act: BETA person, branch equivalent tax account, Commissioner, income year, return of income

Origin: 2004 No 35 s MF 11(1), (2)

#### **ME 18 When person stops being BETA person**

##### *Election*

- (1) A BETA person may choose to stop the branch equivalent tax account.

##### *When election made*

- (2) A person may make an election under subsection (1) only in an income year that is later than the income year in which the person chose under section ME 1(2) to become a BETA person.

##### *When person's status ends*

- (3) The person ends their status as a BETA person from the first day of the income year after the income year in which the election referred to in subsection (1) is made but

only if they file an annual branch equivalent tax account return for the year of election in the time allowed by section 78(3) of the Tax Administration Act 1994.

Defined in this Act: annual branch equivalent tax account return, BETA person, branch equivalent tax account, income year

Origin: 2004 No 35 s MF 11(4), (5)

*Branch equivalent tax credits*

**Table M9: person’s branch equivalent tax credits**

Row	Branch equivalent tax credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Payment of income tax on foreign income</i>		
	Income tax paid on foreign income derived in an income year	day the return of income for the income year is filed	section ME 19
<p><b>How to use this table</b>  Each row of the table describes—</p> <p>(a) the branch equivalent tax credits that may arise in the branch equivalent tax account of a branch equivalent tax account person during an income year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the branch equivalent tax credits is contained in the section noted in the last column.</p>			

**ME 19 BETA person’s payment of income tax on foreign income**

*Credit*

- (1) A BETA person has a branch equivalent tax credit for an income year as described in table M9: person’s branch equivalent tax credits, row 2 (payment of income tax on foreign income) for an amount calculated using the formula—

$$\text{person's tax liability} \times \frac{(\text{CFC or taxable income})}{(\text{person's taxable income})} - \text{foreign tax credits.}$$

*Definitions of items in formula*

- (2) In the formula,—
- (a) **person’s tax liability** is the person’s unadjusted income tax liability for the income year:

- (b) **CFC or taxable income** is the lesser of the person’s—
  - (i) attributed CFC income derived during the income year; or
  - (ii) taxable income for the income year:
- (c) **person’s taxable income** is the person’s taxable income for the income year:
- (d) **foreign tax credits** is the foreign tax credits allowed for the income year under section LC 4 or LC 5 (which relate to foreign tax credits of CFCs).

***Credit date***

- (3) The credit date is the day the person files the return of income for the tax year corresponding to the income year.

Defined in this Act: attributed CFC income, BETA person, branch equivalent tax account, branch equivalent tax credit, foreign tax, income tax, income year, return of income, taxable income, unadjusted income tax liability

Origin: 2004 No 35 s MF 13(1)

***Branch equivalent tax debits***

**Table M10: person’s branch equivalent tax debits**

Row	Branch equivalent tax debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of income tax</i>		
	A credit balance applied to satisfy an income tax liability	day of election	section ME 20
3	<i>Refund of income tax</i>		
	A refund of income tax for attributed CFC income	day of refund	section ME 21
4	<i>Final balance</i>		
	A credit balance when New Zealand residence ends	day of cessation	section ME 22

**How to use this table**

Each row of the table describes—

- (a) the branch equivalent tax debits that may arise in the branch equivalent tax account of a branch equivalent tax account person during an income year; and
- (b) the debit date when the debit arises.

A more detailed description of the branch equivalent tax debits is contained in the section noted in the last column.

**ME 20 BETA person's payment of income tax**

***Election***

- (1) On meeting the requirements set out in subsection (3), a BETA person may choose to use some or all of a credit balance in their branch equivalent tax account to satisfy an income tax liability of the person for an income year.

***Debit***

- (2) The amount used to satisfy the income tax liability is a branch equivalent tax debit described in table M10: person's branch equivalent tax debits, row 2 (payment of income tax) in the person's branch equivalent tax account.

***Requirements***

- (3) The person may make an election under subsection (1) if—
  - (a) they derive a dividend from an income interest in a CFC during the income year; and
  - (b) a credit balance exists in their branch equivalent tax account; and
  - (c) they have paid the income tax giving rise to a credit included in the credit balance.

***Manner of election***

- (4) The person makes the election by recording the amount as a debit in the branch equivalent tax account.

***Income tax paid***

- (5) Once the election is made, the income tax liability is satisfied to the extent to which the liability is not more than the income tax payable on the amount of the dividend derived.

***Debit date***

- (6) The debit date is the day of election.

Defined in this Act: amount, BETA person, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, CFC, dividend, income interest, income tax, income tax liability, income year, pay

### **ME 21 BETA person's refund of income tax**

#### ***Debit***

- (1) A BETA person has a branch equivalent tax debit for an income year as described in table M10: person's branch equivalent tax debits, row 3 (refund of income tax) for the amount of a refund of income tax attributable to income tax paid for the income year on attributed CFC income derived during the income year.

#### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, attributed CFC income, BETA person, branch equivalent tax debit, income tax, income year, pay

Origin: 2004 No 35 s MF 13(3)(b)

### **ME 22 BETA person's final balance**

#### ***Debit***

- (1) A BETA person has a branch equivalent tax debit as described in table M10: person's branch equivalent tax debits, row 4 (final balance) for a credit balance in the branch equivalent tax account when the person stops being resident in New Zealand.

#### ***Debit date***

- (2) The debit date is the day the person stops being resident in New Zealand.

Defined in this Act: BETA person, branch equivalent tax account, branch equivalent tax debit, resident in New Zealand

Origin: 2004 No 35 s MF 13(3)(c)

## **Subpart MF—Available subscribed capital accounts**

### **Contents**

#### *Introductory provisions*

- MF 1 General rules for companies with ASC accounts
- MF 2 ASC accounts
- MF 3 Choosing to become ASC account company
- MF 4 When qualifying trust or group investment fund is liquidated

#### *ASC account credits*

- Table M11: ASC account credits
- MF 5 ASCA redemption debit

#### *ASC account debits*

- Table M12: ASC account credits
- MF 6 ASCA transfer to imputation credit account



## *Introductory provisions*

### **MF 1 General rules for companies with ASC accounts**

#### *ASC account company*

- (1) A qualifying unit trust or a group investment that derives category A income may choose to become an ASC account company.

#### *ASC account*

- (2) An ASC account company must maintain an ASC account for a tax year. The account is a record of ASC account credits and ASC account debits that arise in the account during the tax year.

#### *Credits*

- (3) Credits to the account include redemption proceeds that are less than the ASC company's available subscribed capital calculated under the slice rule.

#### *Debits*

- (4) Debits to the account include a transfer of a credit balance to the company's imputation credit account.

Defined in this Act: ASC account, ASC account company, available subscribed capital, category A income, company, group investment fund, imputation credit account, qualifying unit trust, slice rule, tax year

Origin: 2004 No 35 ss MJ 1(1), MJ 5(1), MJ 6(1)

### **MF 2 ASC accounts**

The general rules on memorandum accounts set out in sections MA 2 and MA 3 (which relate to the treatment of memorandum accounts) apply to the ASC account of an ASC account company.

Defined in this Act: ASC account, ASC account company, memorandum account

Origin: 2004 No 35 s MJ 3(1)

### **MF 3 Choosing to become ASC account company**

#### *Election*

- (1) A company may choose to become an ASC account company if—
  - (a) it is a qualifying unit trust, or a group investment fund that derives category A income; and

- (b) it has issued shares on terms that their redemption will be subject to section CD 14(4) (Returns of capital: off-market share cancellations).

***Notifying Commissioner***

- (2) A company that makes an election under subsection (1) must notify the Commissioner of the election no later than the day on which the company is required to file a return of income for the tax year that corresponds to the income year in which the election is made.

***Effect of election***

- (3) An ASC account company must maintain the ASC account referred to in section MF 1(2) from the day the company chooses to become an ASC account company.

Defined in this Act: ASC account company, category A income, Commissioner, company, group investment fund, income year, notify, qualifying unit trust, return of income, share, tax year

Origin: 2004 No 35 s MJ 1(1)

**MF 4 When qualifying trust or group investment fund is liquidated**

***When this section applies***

- (1) This section applies when a qualifying unit trust or group investment fund is liquidated without having become an ASC account company.

***Becoming ASC account company with opening credit balance***

- (2) The trust or fund may become an ASC account company and calculate an opening credit balance under section MA 7 (Opening balances of memorandum accounts).

***Opening credit balance treated as closing credit balance***

- (3) The opening credit balance in subsection (2) is treated as the closing credit balance of the ASC account.

Defined in this Act: ASC account company, group investment fund, liquidation, qualifying unit trust

Origin: 2004 No 35 s MJ 7

## *ASC account credits*

**Table M11: ASC account credits**

Row	ASC account credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Redemption credit</i>		
	The amount by which the ASC is more than the proceeds on a redemption of shares	day the shares are redeemed	section MF 5
<p><b>How to use this table</b>            Each row of the table describes—</p> <p>(a) the ASC account credits that may arise in the ASC account of an ASC account company during a tax year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the ASC account credits is contained in the section noted in the last column.</p>			

### **MF 5 ASCA redemption credit**

#### *Credit*

- (1) An ASC account company has an ASC account credit as described in table M11: ASC account credits, row 2 (redemption credit) when the company redeems a share in the company for an amount calculated using the formula—

$$\text{ASC amount} - \text{redemption proceeds.}$$

#### *Definition of items in formula*

- (2) In the formula,—
- (a) **ASC amount** is the amount of the available subscribed capital for the redemption calculated under section CD 14(4) (Returns of capital: off-market share cancellations):
- (b) **redemption proceeds** is the amount of the proceeds from the redemption calculated under sections CD 3 to CD 5 (which relate to the nature of a dividend).

#### *Positive result*

- (3) If the result of the formula in subsection (1) is negative, the amount is treated as zero.

***Credit date***

- (4) The credit date is the day the company redeems the share.

Defined in this Act: amount, ASC account, ASC account company, ASC account credit, available subscribed capital, share

Origin: 2004 No 35 s MJ 5(1)

***ASC account debits***

**Table M12: ASC account debits**

Row	ASC account debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Transfer to imputation credit account</i>		
	A transfer of a credit balance to the imputation credit account	set out in section MF 7	section MF 7
<p><b>How to use this table</b>            Each row of the table describes—</p> <p>(a) the ASC account debits that may arise in the ASC account of an ASC account company during a tax year; and</p> <p>(b) the debit date when the debit arises.</p> <p>A more detailed description of the ASC account debits and, as necessary, their debit dates is contained in the section in the last column.</p>			

**MF 6 ASCA transfer to imputation credit account**

***Election***

- (1) An ASC account company may choose that some or all of the credit balance in the company's ASC account is transferred to the company's imputation credit account.

***Debit and credit***

- (2) The amount of the credit balance transferred is—
- (a) an ASC account debit described in table M12: ASC account debits, row 2 (transfer to imputation credit account) for the full amount of the credit balance transferred; and
- (b) an imputation credit described in table M1: imputation credits, row 16 (transfer from ASC account) for the amount calculated under subsection (3).

***Amount***

- (3) The amount of the credit to the imputation credit account is calculated using the formula—

$$\text{credit balance} \times \text{maximum imputation ratio.}$$

***Definitions of items in formula***

- (4) In the formula in subsection (3),—
- (a) **credit balance** is the credit balance in the company's ASC account at the time of the transfer;
  - (b) **maximum imputation ratio** is the maximum imputation ratio calculated using the formula in subsection (5).

***Ratio formula***

- (5) The maximum imputation ratio is calculated using the formula—

$$\frac{\text{tax rate}}{(1 - \text{tax rate})}.$$

***Definition of item in formula***

- (6) In the formula in subsection (5), **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax).

***Timing of election***

- (7) An election under subsection (1) may be made at any time when the company is an ICA company.

***Manner of election***

- (8) A company makes an election under subsection (1) by recording the credit balance transferred as—
- (a) a debit in the company's ASC account; and
  - (b) a credit in the company's imputation credit account.

***Debit date***

- (9) The debit date is—
- (a) the day of election; or
  - (b) the day just before the company stops being an ICA company if the election is made on the occasion of cessation.

Defined in this Act: amount, ASC account, ASC account company, ASC account debit, basic rate, ICA company, imputation credit, imputation credit account, imputation ratio, income tax, income year, tax year

## Subpart MJ—Policyholder credit accounts

### Contents

#### *Introductory provision*

MJ 1 General rules for companies and other persons with policyholder credit accounts

#### *Companies with policyholder credit accounts*

##### *Introductory provision*

MJ 2 Policyholder credit accounts of companies

##### *Policyholder credits of PCA company*

Table M13: policyholder credits

MJ 3 PCA transfer from imputation credit account

MJ 4 PCA transfer from FDWP account

MJ 5 PCA transfer of life insurance business

MJ 6 PCA credit for maximum deficit in FDWP account

MJ 7 PCA credit for reduced deficit in FDWP account

##### *Policyholder debits of PCA company*

Table M14: policyholder debits

MJ 8 PCA payment of tax relating to policyholder base

MJ 9 PCA transfer to imputation credit account

MJ 10 PCA transfer to group account

MJ 11 PCA company's transfer of life insurance business

#### *Persons with policyholder credit accounts*

##### *Introductory provisions*

MJ 12 Choosing to become PCA person

MJ 13 Choosing to stop being PCA person

##### *Policyholder credits of PCA person*

Table M15: person's policyholder credits

MJ 14 PCA person's treatment of imputation credit account

MJ 15 PCA person's transfer of life insurance business

*Policyholder debits of PCA person*

Table M16: person's policyholder debits

- MJ 16 PCA person's payment of tax relating to policyholder base
- MJ 17 PCA person's treatment of imputation credit account
- MJ 18 PCA person's transfer of life insurance business

***Introductory provision***

**MJ 1 General rules for companies and other persons with policyholder credit accounts**

***PCA company***

- (1) A company resident in New Zealand and carrying on a life insurance business is a PCA company. In this Part, the company is called a **PCA company**.

***PCA person***

- (2) A person other than a PCA company who carries on a life insurance business and has policyholder income to which section CR 1(4) (Income of life insurer) applies, may choose to have a policyholder credit account. In this Part, the person is called a **PCA person**.

***General rules***

- (3) The general rules on memorandum accounts set out in sections MA 2 and MA 3 (which relate to the treatment of memorandum accounts) apply to—
  - (a) a PCA company's policyholder credit account; and
  - (b) a PCA person's policyholder credit account.

***References to tax year and income year for PCA person***

- (4) Sections MA 2 and MA 3 apply to a PCA person as if references in those sections to a tax year were references to an income year.

Defined in this Act: business, company, income year, life insurance, memorandum account, PCA company, PCA person, policyholder credit account, policyholder income, resident in New Zealand, tax year

Origin: 2004 No 35 ss ME 15, ME 22(1)

## *Companies with policyholder credit accounts*

### *Introductory provision*

#### **MJ 2 Policyholder credit accounts of companies**

##### ***Accounts***

- (1) A PCA company must maintain a policyholder credit account for a tax year. The account is a record of policyholder credits and policyholder debits that arise in the account during the tax year.

##### ***Credits***

- (2) Credits to the account may include a transfer of an amount from the PCA company's imputation credit account or FDWP account.

##### ***Debits***

- (3) Debits to the account may include a credit balance applied to satisfy a PCA company's policyholder base income tax liability.

##### ***Consolidated groups***

- (4) A consolidated group has a policyholder credit account if a group company is a PCA company.

##### ***Credit and debits arising in group accounts***

- (5) Certain credits and debits arise in the policyholder credit account of the group and not in the account of a group company.

Defined in this Act: amount, consolidated group, FDWP account, imputation credit account, PCA company, policyholder base income tax liability, policyholder credit, policyholder credit account, policyholder debit, tax year

Origin: 2004 No 35 ss ME 15, ME 17(1), ME 27(1), (3)



*Policyholder credits of PCA company*

**Table M13: policyholder credits**

Row	Policyholder credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Transfer from imputation credit account</i>		
	A transfer of a credit balance from an imputation credit account	debit date in the imputation credit account for the transfer	section MJ 3
3	<i>Transfer from FDWP account</i>		
	A transfer of a credit balance from an FDWP account	debit date in the FDWP account for the transfer	section MJ 4
4	<i>Transfer of life insurance business</i>		
	A credit balance transferred from another policyholder credit account on acquisition of a life insurance business	day of transfer of the life insurance business	section MJ 5
5	<i>Credit for maximum deficit in FDWP account</i>		
	A credit for maximum deficit in an FDWP account arising during a tax year	31 March	section MJ 6
6	<i>Credit for reduced deficit in FDWP account</i>		
	A transfer of a credit balance from an FDWP account for a debit for a reduced deficit that arises during a tax year	31 March	section MJ 7
<p><b>How to use this table</b>  Each row of the table describes—</p> <p>(a) the policyholder credits that may arise in the policyholder credit account of a PCA company during a tax year; and</p> <p>(b) the credit date when the policyholder credit arises.</p> <p>A more detailed description of the policyholder credits is contained in the section noted in the last column.</p>			

**MJ 3 PCA transfer from imputation credit account**

***Credit***

- (1) A PCA company has a policyholder credit as described in table M13: policyholder credits, row 2 (transfer from imputation credit account) for an amount equal to the amount of an imputation debit described in, as applicable,—
- (a) table M2: imputation debits, row 20 (transfer to policyholder credit account) if the company is not part of a consolidated group; or
- (b) table M20: imputation debits of consolidated imputation groups, row 15 (transfer to policyholder credit account) if the company is part of a consolidated imputation group.

***Credit date***

- (2) The credit date is the same as the debit date recorded for the transfer in the imputation credit account.

Defined in this Act: amount, consolidated group, imputation credit account, imputation debit, PCA company, policyholder credit, policyholder credit account

Origin: 2004 No 35 ss ME 14(1), ME 18(1)(a), (2)(a)

**MJ 4 PCA transfer from FDWP account**

***Credit***

- (1) A PCA company has a policyholder credit as described in table M13: policyholder credits, row 3 (transfer from FDWP account) for an amount that is equal to the amount of an FDWP debit described in table M4: FDWP debits, row 8 (transfer to policyholder credit account) for the transfer of a credit balance or the amount of a credit from the company's FDWP account.

***Credit date***

- (2) The credit date is the same as the debit date recorded for the transfer in the FDWP account.

Defined in this Act: amount, FDWP account, FDWP debit, PCA company, policyholder credit, policyholder credit account

Origin: 2004 No 35 s ME 18(1)(b), (2)(b)

**MJ 5 PCA transfer of life insurance business**

***When this section applies***

- (1) This section applies when a PCA company or a PCA person transfers a life insurance business to another PCA company.

***Credit***

- (2) The PCA company that is the transferee has a policyholder credit as described in table M13: policyholder credits, row 4 (transfer of life insurance business) for an amount equal to an amount of a policyholder debit under section MJ 11.

***Credit date***

- (3) The credit date is the day the life insurance business is transferred.

Defined in this Act: amount, business, life insurance, PCA company, PCA person, policyholder credit, policyholder credit account, policyholder debit

Origin: 2004 No 35 s ME 18(1)(c), (2)(c)

## **MJ 6 PCA credit for maximum deficit in FDWP account**

### ***Credit***

- (1) A PCA company has a policyholder credit for a tax year as described in table M13: policyholder credits, row 5 (credit for maximum deficit in FDWP account) for an amount equal to the amount of a FDWP debit—
  - (a) that arises in the company's FDWP account as described in table M4: FDWP debits, row 11 (breach of FDWP ratio by PCA company); and
  - (b) whose amount is calculated under sections MC 20 and MC 33 (which relate to the maximum deficit debit).

### ***Credit date***

- (2) The credit date is the last day of the tax year.

Defined in this Act: amount, FDWP account, FDWP debit, FDWP ratio, PCA company, policyholder credit, policyholder credit account, tax year

Origin: 2004 No 35 s ME 18(1)(bb), (2)(bb)

## **MJ 7 PCA credit for reduced deficit in FDWP account**

### ***Credit***

- (1) A PCA company has a policyholder credit for a tax year as described in table M13: policyholder credits, row 6 (credit for reduced deficit in FDWP account) for an amount equal to the amount of an FDWP debit—
  - (a) that arises in the company's FDWP account as described in table M4: FDWP debits, row 11 (breach of FDWP ratio by PCA company); and
  - (b) whose amount is calculated under sections MC 20 and MC 35 (which relate to the reduced deficit debit).

### ***Credit date***

- (2) The credit date is the last day of the tax year.

Defined in this Act: amount, FDWP account, FDWP debit, FDWP ratio, PCA company, policyholder credit, policyholder credit account, tax year

Origin: 2004 No 35 s ME 18(1)(bc), (2)(bb)

*Policyholder debits of PCA company*

**Table M14: policyholder debits**

Row	Policyholder debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of tax relating to policyholder base</i>		
	A credit balance applied to satisfy a policyholder base income tax or provisional tax liability for an income year	last day of the income year	section MJ 8
3	<i>Transfer to imputation credit account</i>		
	A credit balance transferred to an imputation credit account of a company or group	day of election	section MJ 9
4	<i>Transfer to group account</i>		
	A transfer of a credit to a group account	credit date in the group account for the credit transferred	section MJ 10
5	<i>Transfer of life insurance business</i>		
	A credit balance transferred to another policyholder credit account on transfer of a life insurance business	day of transfer of the life insurance business	section MJ 11
<p><b>How to use this table</b>  Each row of the table describes—</p> <p>(a) the policyholder debits that may arise in the policyholder credit account of a PCA company during a tax year; and</p> <p>(b) the debit date when the policyholder debit arises.</p> <p>A more detailed description of the policyholder debits is contained in the section noted in the last column.</p>			

**MJ 8 PCA payment of tax relating to policyholder base**

*Election*

- (1) A PCA company may choose that some or all of a credit balance in the company's policyholder credit account is treated as applied to satisfy—
- (a) a policyholder base income tax liability of the company; or
  - (b) a provisional tax liability of the company for its policyholder base.

***Manner of election***

- (2) A company makes an election under subsection (1) by recording as a debit the balance applied to satisfy the policyholder base income tax liability or policyholder base provisional tax.

***Effect of election***

- (3) As a result of an election under this section,—
- (a) a policyholder debit described in table M14: policyholder debits, row 2 (payment of tax relating to policyholder base) arises in the company's policyholder credit account; and
  - (b) the company's liability for the amount of income tax or provisional tax is satisfied.

***Debit date***

- (4) The debit date is the last day of the company's income year corresponding to the tax year for which the policyholder base income tax liability or policyholder base provisional tax arises.

Defined in this Act: amount, income year, pay, PCA company, policyholder base, policyholder base income tax liability, policyholder credit account, provisional tax, tax year

Origin: 2004 No 35 ss ME 18(3)(a), (4)(a), ME 19(1), (2)

**MJ 9 PCA transfer to imputation credit account**

***Election***

- (1) A PCA company may choose to treat some or all of a credit balance in the company's policyholder credit account as transferred to an imputation credit account. Subsection (2) overrides this subsection.

***Exclusion***

- (2) An election under subsection (1) excludes an amount that arises when—
- (a) the company has adopted a non-standard accounting year; and
  - (b) during the accounting year, the company has made an election that means the credit balance includes a credit described in either of the following rows of table M13: policyholder credits:
    - (i) row 2 (transfer from imputation credit account);
    - (ii) row 3 (transfer from FDWP account); and
  - (c) the election would result in a debit to the policyholder credit account during the tax year that corresponds to the accounting year.

***Debit and credit***

- (3) The amount of the credit balance transferred is—
- (a) a debit described in table M14: policyholder debits, row 3 (transfer to imputation credit account) in the company's policyholder credit account; and
  - (b) a credit described in, as applicable,—
    - (i) table M1: imputation credits, row 15 (transfer from policyholder credit account) in the company's imputation credit account; or
    - (ii) table M19: imputation credits of consolidated imputation groups, row 13 (transfer from company's policyholder credit account) in the group's imputation credit account.

***Credit balance reduced***

- (4) Despite subsection (2)(b), the credit balance includes a credit that is cancelled by a later debit to the account. Whether a debit cancels a credit is determined by treating a debit as offsetting a credit in the order in which credits arise in the account.

***Other accounts***

- (5) The company may treat the amount of a credit balance that can be transferred as transferred to—
- (a) the company's imputation credit account; or
  - (b) the imputation credit account of an imputation group, if the company is part of the group.

***Manner of election***

- (6) The company makes the election by recording the amount of the credit balance transferred as—
- (a) a debit in the company's policyholder credit account; and
  - (b) a credit in the imputation credit account of, as applicable,—
    - (i) the company; or
    - (ii) the imputation group.

***Debit date***

- (7) The debit date is the day of election.

Defined in this Act: accounting year, amount, consolidated imputation group, FDWP account, imputation credit, imputation credit account, imputation group, PCA company, policyholder credit, policyholder credit account, non-standard accounting year, tax year

Origin: 2004 No 35 ss ME 18(3)(b), (4)(b), ME 19(3)-(6)

## **MJ 10 PCA transfer to group account**

### ***Debit***

- (1) A PCA company has a policyholder debit in a tax year as described in table M14: policyholder debits, row 4 (transfer to group account) for an amount equal to the amount of a policyholder credit described in table M27: policyholder credits of consolidated groups, row 4 (group company's credit) for a credit transferred to the policyholder credit account of the consolidated group of which the company is part.

### ***Debit date***

- (2) The debit date is the credit date recorded in the group account for the transfer.

Defined in this Act: amount, consolidated group, PCA company, policyholder credit, policyholder credit account, policyholder debit, tax year

Origin: 2004 No 35 s ME 27(2)

## **MJ 11 PCA company's transfer of life insurance business**

### ***Election***

- (1) A PCA company may choose to transfer a credit balance in the company's policyholder credit account to another person on the transfer of the company's life insurance business to—
  - (a) another PCA company; or
  - (b) a PCA person.

### ***Requirements***

- (2) A PCA company may make an election under subsection (1) if—
  - (a) the transfer meets the requirements of section EY 44(1) (Policyholder income formula: when life insurance business transferred); and
  - (b) after the transfer, the company is no longer required to maintain a policyholder credit account.

### ***Debit***

- (3) As a result of the election, the PCA company that is the transferor has a debit described in table M14: policyholder debits, row 5 (transfer of life insurance business) for the amount of the credit balance transferred under subsection (1).

### ***Manner of election***

- (4) The company makes the election by recording the amount of the credit balance transferred as a debit in the company's policyholder credit account.

### ***Debit date***

- (5) The debit date is the day the life insurance business is transferred.

Defined in this Act: amount, business, life insurance, PCA company, PCA person, policyholder credit, policyholder credit account, policyholder debit

Origin: 2004 No 35 ss ME 18(3)(c), (4)(c), ME 19A

## ***Persons with policyholder credit accounts***

### ***Introductory provisions***

#### **MJ 12 Choosing to become PCA person**

##### ***Notifying Commissioner***

- (1) A person who is eligible under section MJ 1(2) and who chooses to be a PCA person must notify the Commissioner of their election—
  - (a) no later than 21 days after the election; or
  - (b) by a later time if the Commissioner allows.

##### ***Effect of election***

- (2) A PCA person must maintain the policyholder credit account referred to in section MJ 1(2) from the start of the income year in which the PCA person makes the election.

Defined in this Act: Commissioner, company, income year, life insurance, notify, PCA person, policyholder credit account, policyholder income

Origin: 2004 No 35 s ME 21(1), (2)

#### **MJ 13 Choosing to stop being PCA person**

##### ***Election***

- (1) A PCA person may choose to stop being a PCA person.

##### ***When election made***

- (2) An election under subsection (1) may be made only in an income year that is later than the income year in which the person chooses to become a PCA person.

##### ***When person's status as PCA person ends***

- (3) The person ends their status as a PCA person from the start of the income year following the year of election but only if they file an annual policyholder credit account return for the year of election in the time allowed by section 66(3) of the Tax Administration Act 1994.



Defined in this Act: annual policyholder credit account return, Commissioner, income year, PCA person, policyholder credit account

Origin: 2004 No 35 s ME 21(3), (4)

*Policyholder credits of PCA person*

**Table M15: person’s policyholder credits**

Row	Policyholder credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Treatment of imputation credit account</i>		
	An equivalent credit that would arise for an ICA company from the life insurance business	set out in section MJ 14	section MJ 14
3	<i>Transfer of life insurance business</i>		
	A credit balance transferred from another policyholder credit account on acquisition of a life insurance business	day of transfer of the life insurance business	section MJ 15
<p><b>How to use this table</b>            Each row of the table describes—</p> <p>(a) the policyholder credits that may arise in the policyholder credit account of a PCA person during an income year; and</p> <p>(b) the credit date when the policyholder credit arises.</p> <p>A more detailed description of the policyholder credits and, as necessary, their credit dates is contained in the section noted in the last column.</p>			

**MJ 14 PCA person’s treatment of imputation credit account**

*Credit*

- (1) A PCA person has a policyholder credit as described in table M15: person’s policyholder credits, row 2 (treatment of imputation credit account) for an equivalent credit, described in a row of table M1: imputation credits, that would arise in the imputation credit account of an ICA company if that company were carrying on the person’s life insurance business.

***Determining credits arising***

- (2) The following paragraphs apply to determine what are the equivalent credits:
- (a) a credit described in the following rows of table M1: imputation credits is excluded:
    - (i) row 7 (derivation of dividend with imputation credit):
    - (ii) row 8 (derivation of dividend with FDWP credit):
    - (iii) row 15 (transfer from policyholder credit account):
  - (b) a credit described in table M1: imputation credits, row 2 (payment of tax) must not be more than the income tax liability that would arise if—
    - (i) the person's only activity related to life insurance policies offered or entered into in New Zealand; and
    - (ii) section NG 3 (Non-resident withholding tax to be final tax in certain cases) is disregarded.

***Credit date***

- (3) The credit date is—
- (a) the same as the credit date for the equivalent credit; and
  - (b) the day the relevant dividend is paid if the equivalent credit is for income tax treated as paid by the person under section LB 2, LD 8, or ME 7 (which relate to imputation credits, FDWP credits, and foreign tax paid on branch equivalent income).

Defined in this Act: business, dividend, FDWP credit, foreign tax, ICA company, imputation credit, imputation credit account, income tax liability, life insurance, life insurance policy, pay, PCA person, policyholder credit, policyholder credit account

Origin: 2004 No 35 s ME 23(1)(a), (2)(a), (3), (6)(a)

**MJ 15 PCA person's transfer of life insurance business**

***When this section applies***

- (1) This section applies when a PCA company or a PCA person transfers a life insurance business to another PCA person.

***Credit***

- (2) The PCA person who is the transferee has a policyholder credit as described in table M15: person's policyholder credits, row 3 (transfer of life insurance business) for an amount equal to an amount of a policyholder debit under section MJ 18.

***Credit date***

- (3) The credit date is the day the life insurance business is transferred.

Defined in this Act: amount, business, life insurance, PCA company, PCA person, policyholder credit, policyholder debit

Origin: 2004 No 35 s ME 23(1)(b), (2)(b)

*Policyholder debits of PCA person*

**Table M16: person’s policyholder debits**

Row	Policyholder debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of tax relating to policyholder base</i>		
	A credit balance applied to satisfy a policyholder base income tax or provisional tax liability for an income year	day of election	section MJ 16
3	<i>Treatment of imputation credit account</i>		
	An equivalent debit that would arise for an imputation credit account company from a life insurance business	debit date of the equivalent debit	section MJ 17
4	<i>Transfer of life insurance business</i>		
	A credit balance transferred to another policyholder credit account on transfer of a life insurance business	day of transfer of the life insurance business	section MJ 18
<p><b>How to use this table</b>            Each row of the table describes—</p> <p>(a) the policyholder debits that may arise in the policyholder credit account of a PCA person during an income year; and</p> <p>(b) the debit date when the policyholder debit arises.</p> <p>A more detailed description of the policyholder debits is contained in the section noted in the last column.</p>			

**MJ 16 PCA person’s payment of tax relating to policyholder base**

***Election***

- (1) A PCA person may choose that some or all of the credit balance in the person’s policyholder credit account is applied to satisfy—
- (a) a policyholder base income tax liability of the person; or
  - (b) a provisional tax liability of the person for the person’s policyholder base.

***Manner of election***

- (2) The person makes an election under subsection (1) by recording as a debit the balance applied to satisfy the policyholder base income tax liability or policyholder base provisional tax liability.

***Effect of election***

- (3) As a result of the election,—
- (a) a policyholder debit described in table M16: person’s policyholder debits, row 2 (payment of tax relating to policyholder base) arises in the person’s policyholder credit account; and
  - (b) the person’s liability for the income tax or provisional tax is satisfied.

***Debit date***

- (4) The debit date is the last day of the person’s income year corresponding to the tax year for which the liability for policyholder base income tax or provisional tax in relation to the person’s policyholder base arises.

Defined in this Act: income tax, income year, pay, PCA person, policyholder base, policyholder base income tax liability, policyholder credit account, policyholder debit, provisional tax, tax year

Origin: 2004 No 35 ss ME 23(4)(a), (5)(a), ME 24

**MJ 17 PCA person’s treatment of imputation credit account**

***Debit***

- (1) A PCA person has a policyholder debit as described in table M16: person’s policyholder debits, row 3 (treatment of imputation credit account) for an equivalent debit, described in a row of table M2: imputation debits, that would arise in the imputation credit account of an ICA company if that company were carrying on the person’s life insurance business.

***Determining credits arising***

- (2) The following paragraphs apply to determine what are the equivalent credits:
- (a) a debit described in the following rows of table M2: imputation debits, is excluded—
    - (i) row 14 (debit for loss of shareholder continuity):
    - (ii) row 15 (on-market cancellation):
    - (iii) row 20 (transfer to policyholder credit account):
  - (b) the amount of a refund of a payment of income tax that gave rise to a credit described in table M15: person’s policyholder credits, row 2 (treatment of imputation credit account) is treated as a debit in the person’s policyholder credit account.

***Debit date***

- (3) The debit date is—
- (a) the same as the debit date for the equivalent debit; or
  - (b) the date the credit would have arisen in the imputation credit account of the PCA person if—
    - (i) they were an ICA company in relation to the business of providing life insurance; and
    - (ii) their policyholder credit account were an imputation credit account.

Defined in this Act: amount, business, ICA company, imputation credit account, imputation debit, income tax, life insurance, on-market cancellation, pay, PCA person, policyholder credit account, policyholder debit, shareholder

Origin: 2004 No 35 s ME 23(4)(b), (5)(b)

**MJ 18 PCA person's transfer of life insurance business**

***Election***

- (1) A PCA person may choose to transfer a credit balance in the person's policyholder credit account to another person on transfer of the person's life insurance business to—
- (a) a PCA company; or
  - (b) another PCA person.

***Requirements***

- (2) A PCA person may make an election under subsection (1) if—
- (a) the transfer meets the requirements of section EY 44(1) (Policyholder income formula: when life insurance business transferred); and
  - (b) after the transfer, the person is no longer required to maintain a policyholder credit account.

***Debit***

- (3) As a result of the election, the transferor has a debit described in table M16: person's policyholder debits, row 4 (transfer of life insurance business) for the amount of the credit balance transferred under subsection (1).

***Manner of election***

- (4) The person makes the election by recording as a debit the amount of the credit balance transferred in the person's policyholder credit account.

***Debit date***

- (5) The debit date is the day the life insurance business is transferred.

Defined in this Act: amount, business, life insurance, PCA company, PCA person, policyholder credit account, policyholder debit

Origin: 2004 No 35 s ME 23(4)(c), (5)(c)

## **Subpart MK—Maori authority credit accounts**

### **Contents**

#### ***Introductory provision***

MK 1 General rules for Maori authorities with Maori authority credit accounts

#### ***Maori authority credits***

Table M17: Maori authority credits

- MK 2 MACA payment of tax
- MK 3 MACA payment of tax to other Maori authorities
- MK 4 MACA payment of further income tax
- MK 5 MACA distribution with Maori authority credit
- MK 6 MACA derivation of dividend with imputation credit
- MK 7 MACA derivation of dividend with FDWP credit
- MK 8 MACA deduction of resident withholding tax
- MK 9 MACA reversal of tax advantage arrangement

#### ***Maori authority debits***

Table M18: Maori authority debits

- MK 10 MACA distribution
- MK 11 MACA allocation of provisional tax
- MK 12 MACA refund of income tax
- MK 13 MACA payment of other taxes
- MK 14 MACA refund of FDWP
- MK 15 MACA debit for loss of shareholder continuity
- MK 16 MACA breach of Maori authority credit ratio
- MK 17 MACA tax advantage arrangement
- MK 18 MACA final balance

#### ***Maori authority credits attached to distributions***

- MK 19 Maori authority credits attached to distributions
- MK 20 MACA benchmark distribution rules

#### ***Further income tax***

- MK 21 Further income tax for closing credit balance

- MK 22 Further income tax when Maori authority no longer Maori authority  
MK 23 Further income tax paid satisfying liability for income tax  
MK 24 Income tax paid satisfying liability for further income tax

### ***Introductory provision***

#### **MK 1 General rules for Maori authorities with Maori authority credit accounts**

##### ***Accounts***

- (1) A Maori authority must maintain a Maori authority account for a tax year. The account is a record of Maori authority credits and Maori authority debits that arise in the account during the tax year. Subsection (2) overrides this subsection.

##### ***Exclusion***

- (2) Subsection (1) does not apply for a period in which—
- (a) the constitution or rules of the Maori authority prohibit a distribution of any kind to a member; or
  - (b) the Maori authority derives only exempt income (disregarding exempt income under section CW 10 (Dividend within New Zealand wholly-owned group)).

##### ***Credits***

- (3) Credits include an amount of income tax paid during a tax year, an imputation credit attached to a dividend derived by the Maori authority and, if the Maori authority is not also an FDWP company, an FDWP credit attached to a dividend derived.

##### ***Debits***

- (4) Debits may include a refund of income tax and a Maori authority credit attached to a taxable Maori authority distribution paid by the Maori authority.

##### ***General rules***

- (5) The general rules on memorandum accounts set out in sections MA 2 and MA 3 (which relate to the treatment of memorandum accounts) apply to Maori authority credit accounts.

Defined in this Act: amount, dividend, exempt income, FDWP company, FDWP credit, income tax, Maori authority, Maori authority credit, Maori authority credit account, Maori authority debit, member, memorandum account, pay, tax year, taxable Maori authority distribution

Origin: 2004 No 35 ss MK 1, MK 3



## *Maori authority credits*

**Table M17: Maori authority credits**

Row	Maori authority credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Payment of tax</i>		
	Provisional tax and income tax paid	day of payment	section MK 2
3	<i>Payment of tax to another Maori authority</i>		
	Tax paid to another Maori authority	day of payment	section MK 3
4	<i>Payment of further income tax</i>		
	Further income tax paid	day of payment	section MK 4
5	<i>Distribution with Maori authority credit</i>		
	A Maori authority credit attached to a distribution derived	day the distribution is paid	section MK 5
6	<i>Derivation of dividend with imputation credit</i>		
	An imputation credit attached to a dividend derived	day the dividend is paid	section MK 6
7	<i>Derivation of dividend with FDWP credit</i>		
	An FDWP credit attached to a dividend derived when not an FDWP company	day the dividend is paid	section MK 7
8	<i>Deduction of resident withholding tax</i>		
	A deduction of resident withholding tax	day of deduction	section MK 8
9	<i>Reversal of tax advantage arrangement</i>		
	The reversal of a debit for a tax advantage arrangement	debit date for the debit	section MK 9
<p><b>How to use this table</b></p> <p>Each row of the table describes—</p> <p>(a) the Maori authority credits that may arise in the Maori authority credit account of a Maori authority during a tax year; and</p> <p>(b) the date when the credit arises.</p> <p>A more detailed description of the Maori authority credits is contained in the section noted in the last column.</p>			

## **MK 2 MACA payment of tax**

### ***Credit***

- (1) A Maori authority has a Maori authority credit as described in table M17: Maori authority credits, row 2 (payment of tax) for a payment of income tax or provisional tax. Subsection (2) overrides this subsection.

### ***No credit***

- (2) No credit under subsection (1) arises for—
- (a) income tax paid for a tax year before the 2004–05 tax year; or
  - (b) income tax paid for income derived when the Maori authority was not a Maori authority; or
  - (c) income tax paid by a credit under section LB 2(2) (Credit of tax for imputation credit); or
  - (d) further income tax applied under section MK 23 to pay income tax or provisional tax.

### ***Credit date***

- (3) The credit date is the day the tax is paid.

Defined in this Act: further income tax, income, income tax, Maori authority, Maori authority credit, Maori authority credit account, pay, provisional tax, tax year

Origin: 2004 No 35 s MK 4(1)(a), (2)(a)

## **MK 3 MACA payment of tax to other Maori authorities**

### ***Credit***

- (1) A Maori authority has a Maori authority credit as described in table M17: Maori authority credits, row 3 (payment of tax to another Maori authority) for a payment of tax to another Maori authority under section MB 9(5) (Payments to be set off within wholly-owned group) of the Income Tax Act 2004.

### ***Credit date***

- (2) The credit date is the day the tax is paid.

Defined in this Act: Maori authority, Maori authority credit, pay

Origin: 2004 No 35 s MK 4(1)(b), (2)(a)

#### **MK 4 MACA payment of further income tax**

*Credit*

- (1) A Maori authority has a Maori authority credit as described in table M17: Maori authority credits, row 4 (payment of further income tax) for a payment of further income tax under section MK 21 or MK 22.

*Credit date*

- (2) The credit date is the day the further income tax is paid.

Defined in this Act: further income tax, Maori authority, Maori authority credit, pay

Origin: 2004 No 35 s MK 4(1)(c), (2)(a)

#### **MK 5 MACA distribution with Maori authority credit**

*Credit*

- (1) A Maori authority has a Maori authority credit as described in table M17: Maori authority credits, row 5 (distribution with Maori authority credit) for the amount of a Maori authority credit attached to a distribution derived by the Maori authority.

*Credit date*

- (2) The credit date is the day the distribution is made.

Defined in this Act: amount, Maori authority, Maori authority credit

Origin: 2004 No 35 s MK 4(1)(d), (2)(b)

#### **MK 6 MACA derivation of dividend with imputation credit**

*Credit*

- (1) A Maori authority has a Maori authority credit as described in table M17: Maori authority credits, row 6 (derivation of dividend with imputation credit) for the amount of an imputation credit attached to a dividend derived by the Maori authority.

*Credit date*

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, dividend, imputation credit, Maori authority, Maori authority credit, pay

Origin: 2004 No 35 s MK 4(1)(e), (2)(c)

### **MK 7 MACA derivation of dividend with FDWP credit**

#### ***Credit***

- (1) A Maori authority has a Maori authority credit as described in table M17: Maori authority credits, row 7 (derivation of dividend with FDWP credit) for the amount of an FDWP credit attached to a dividend derived by the Maori authority when it is not an FDWP company.

#### ***Credit date***

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, dividend, FDWP company, FDWP credit, Maori authority, Maori authority credit, pay

Origin: 2004 No 35 s MK 4(1)(f), (2)(c)

### **MK 8 MACA deduction of resident withholding tax**

#### ***Credit***

- (1) A Maori authority has a Maori authority credit as described in table M17: Maori authority credits, row 8 (deduction of resident withholding tax) for the amount of a deduction of resident withholding tax that is treated under section NF 12(b) (Amount of resident withholding tax deduction deemed to have been received) as derived by the Maori authority.

#### ***Credit date***

- (2) The credit date is the day the resident withholding tax is deducted from resident withholding income.

Defined in this Act: amount, Maori authority, Maori authority credit, resident withholding income, resident withholding tax

Origin: 2004 No 35 s MK 4(1)(h), (2)(e)

### **MK 9 MACA reversal of tax advantage arrangement**

#### ***Credit***

- (1) A Maori authority has a Maori authority credit as described in table M17: Maori authority credits, row 9 (reversal of tax advantage arrangement) for an amount that equals the amount of a debit in the Maori authority credit account described in table M18: Maori authority debits, row 9 (tax advantage arrangement).

#### ***Credit date***

- (2) The credit date is the same as the debit date for the debit under section MK 17.

Defined in this Act: amount, arrangement, Maori authority, Maori authority credit, Maori authority credit account, Maori authority debit, tax advantage

Origin: 2004 No 35 s MK 4(1)(e), (2)(a)

### *Maori authority debits*

**Table M18: Maori authority debits**

Row	Maori authority debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Distribution</i>		
	A Maori authority credit attached to distribution paid	day of distribution	section MK 10
3	<i>Allocation of provisional tax</i>		
	An allocation of provisional tax	day of notice of allocation	section MK 11
4	<i>Refund of income tax</i>		
	A refund of income tax	day of refund	section MK 12
5	<i>Payment of other taxes</i>		
	Overpaid income tax applied to satisfy another taxation liability	day of application	section MK 13
6	<i>Refund of FDWP</i>		
	A refund of FDWP when not an FDWP company	day of refund	section MK 14
7	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity for a Maori authority that is a company	day of loss of continuity	section MK 15
8	<i>Breach of Maori authority credit ratio</i>		
	A debit for breach of Maori authority credit ratio	31 March	section MK 16
9	<i>Tax advantage arrangement</i>		
	A debit for a tax advantage arrangement	last day of the tax year in which the arrangement began	section MK 17
10	<i>Final balance</i>		
	A credit balance when the Maori authority credit account stops	day of cessation	section MK 18

**How to use this table**

Each row of the table describes—

- (a) the Maori authority debits that may arise in the Maori authority credit account of a Maori authority during a tax year; and
- (b) the date when the debit arises.

A more detailed description of the Maori authority debits is contained in the section noted in the last column.

**MK 10 MACA distribution**

*Debit*

- (1) A Maori authority has a Maori authority debit as described in table M18: Maori authority debits, row 2 (distribution) for the amount of a Maori authority credit attached to a distribution made by the Maori authority.

*Debit date*

- (2) The debit date is the day the distribution is made.

Defined in this Act: amount, Maori authority, Maori authority credit, Maori authority debit

Origin: 2004 No 35 ss MK 4(2)(a), MK 5(1)(a)

**MK 11 MACA allocation of provisional tax**

*Debit*

- (1) A Maori authority has a Maori authority debit as described in table M18: Maori authority debits, row 3 (allocation of provisional tax) for an amount of provisional tax allocated by the Maori authority under section MB 9 (Payments to be set off within wholly-owned group) of the Income Tax Act 2004 to another Maori authority as an underpaid company.

*Debit date*

- (2) The debit date is the day the Commissioner is notified of the allocation.

Defined in this Act: amount, company, Maori authority, Maori authority debit, provisional tax

Origin: 2004 No 35 ss MK 4(2)(b), MK 5(1)(b)

## **MK 12 MACA refund of income tax**

### *Debit*

- (1) A Maori authority has a Maori authority debit as described in table M18: Maori authority debits, row 4 (refund of income tax) for the amount of a refund of income tax paid to the Maori authority. Subsections (2) and (3) override this subsection.

### *No debit*

- (2) The amount of a debit under subsection (1) does not include—
- (a) a refund of income tax paid for a tax year before the 2004–05 tax year; or
  - (b) a refund of income tax paid to the Maori authority that is not more than the debit described in table M18: Maori authority debits, row 7 (debit for loss of shareholder continuity); or
  - (c) a refund of income tax paid for a period when the Maori authority credit account was not maintained.

### *Part-year Maori authorities*

- (3) If a Maori authority maintains a Maori authority credit account for only part of a tax year, the amount of the debit is calculated using the formula—

$$\left( \frac{\text{account days}}{365} \right) \times \text{refund.}$$

### *Definition of items in formula*

- (4) In the formula,—
- (a) **account days** is the number of days in the tax year for which the Maori authority maintains the Maori authority credit account;
  - (b) **refund** is the amount of the refund.

### *Debit date*

- (5) The debit date is the day the refund is made.

Defined in this Act: amount, income tax, Maori authority, Maori authority credit account, Maori authority debit, pay, tax year

Origin: 2004 No 35 ss MK 4(2)(c), MK 5(1)(c), (g)

## **MK 13 MACA payment of other taxes**

### *Debit*

- (1) A Maori authority has a Maori authority debit as described in table M18: Maori authority debits, row 5 (payment of other taxes) for an amount of overpaid income

tax applied to satisfy an amount owing under the Inland Revenue Acts. Subsection (2) overrides this subsection.

***No debit***

- (2) The amount of a debit under subsection (1) does not include an amount of overpaid income tax—
- (a) applied to satisfy a liability for income tax or provisional tax; or
  - (b) paid for a tax year before the 2004–05 tax year; or
  - (c) that relates to income tax paid before a Maori authority debit described in table M18: Maori authority debits, row 7 (debit for loss of shareholder continuity) arises when the amount is not more than the amount of the debit for loss of shareholder continuity.

***Debit date***

- (3) The debit date is the day the amount is applied.

Defined in this Act: amount, income tax liability, income year, Inland Revenue Acts, Maori authority, Maori authority debit, pay, provisional tax, shareholder, tax year

Origin: 2004 No 35 ss MK 4(2)(i), MK 5(1)(j)

**MK 14 MACA refund of FDWP**

***Debit***

- (1) A Maori authority has a Maori authority debit as described in table M18: Maori authority debits, row 6 (refund of FDWP) for the amount of a refund of FDWP paid to the Maori authority when it is not an FDWP company.

***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, FDWP, FDWP company, Maori authority, Maori authority debit, pay

Origin: 2004 No 35 s MK 5(1)(e)

**MK 15 MACA debit for loss of shareholder continuity**

***Debit***

- (1) A Maori authority has a Maori authority debit as described in table M18: Maori authority debits, row 7 (debit for loss of shareholder continuity) for the amount of a Maori authority credit retained in the Maori authority credit account and unused before the date of breach in shareholder continuity.



***Debit date***

- (2) The debit date is the day of loss of continuity.

Defined in this Act: amount, company, Maori authority, Maori authority credit account, Maori authority debit, shareholder

Origin: 2004 No 35 s MK 5(1)(f), (2)(f)

**MK 16 MACA breach of Maori authority credit ratio**

***Debit***

- (1) A Maori authority has a Maori authority debit as described in table M18: Maori authority debits, row 8 (breach of Maori authority credit ratio) for a breach in a tax year of the Maori authority credit ratio under section MK 20(3) for an amount calculated using the formula—

(net distributions x Maori authority credit ratio) - credits attached.

***Definition of items in formula***

- (2) In the formula,—
- (a) **net distributions** is the total amount of all taxable Maori authority distributions made by the Maori authority during the tax year, excluding the amount of Maori authority credits attached to the distributions:
  - (b) **Maori authority credit ratio** is the maximum Maori authority credit ratio or, if less, the greatest Maori authority credit ratio of all taxable Maori authority distributions made by the Maori authority during the tax year:
  - (c) **credits attached** is the amount of all Maori authority credits attached to distributions paid by the Maori authority during the tax year.

***Ratio change declaration***

- (3) A debit under subsection (1) does not arise if the Maori authority provides a ratio change declaration under section MK 20(5).

***Debit date***

- (4) The debit date is the last day of the tax year.

Defined in this Act: amount, distribution, Maori authority, Maori authority credit account, Maori authority credit ratio, Maori authority debit, tax year, taxable Maori authority distribution

Origin: 2004 No 35 ss MK 5(1)(d), (2)(d), MK 7(5)

### **MK 17 MACA tax advantage arrangement**

#### ***Debit***

- (1) A Maori authority has a Maori authority debit as described in table M18: Maori authority debits, row 9 (tax advantage arrangement) for the amount of a further debit for a tax advantage arrangement referred to in section GC 27A(6) (Arrangement to obtain tax advantage with respect to Maori authority credit account provisions (subpart MK)).

#### ***Debit date***

- (2) The debit date is the last day of the tax year in which the tax advantage arrangement began.

Defined in this Act: amount, arrangement, Maori authority, Maori authority credit account, Maori authority debit, tax advantage, tax year

Origin: 2004 No 35 s MK 5(1)(h), (2)(g)

### **MK 18 MACA final balance**

#### ***Debit***

- (1) A Maori authority has a Maori authority debit as described in table M18: Maori authority debits, row 10 (final balance) for a credit balance in the Maori authority credit account when the Maori authority stops being a Maori authority.

#### ***Debit date***

- (2) The debit date is day the Maori authority stops being a Maori authority.

Defined in this Act: Maori authority, Maori authority credit account, Maori authority debit

Origin: 2004 No 35 s ME 5(1)(i), (2)(h)

### ***Maori authority credits attached to distributions***

### **MK 19 Maori authority credits attached to distributions**

#### ***Attaching Maori authority credits***

- (1) When a Maori authority makes a taxable Maori authority distribution, it may attach a Maori authority credit to the distribution.

***Maori authority credit ratio***

- (2) A distribution referred to in subsection (1) must have a Maori authority credit ratio calculated using the formula—

$$\frac{\text{Maori authority credit attached}}{\text{net distribution.}}$$

***Definition of items in formula***

- (3) In the formula in subsection (2),—
- (a) **Maori authority credit attached** is the amount of the Maori authority credit attached to the distribution;
  - (b) **net distribution** is the amount of distribution made, excluding the amount of Maori authority credit.

***Maximum permitted ratio***

- (4) A Maori authority credit attached to a distribution must not be more than the maximum Maori authority credit ratio which is calculated using the formula—

$$\frac{\text{tax rate}}{(1 - \text{tax rate})}$$

***Definition of item in formula***

- (5) In the formula in subsection (4), **tax rate** is the decimal fraction that is the basic rate of income tax for Maori authorities set out in schedule 1, part A, clause 2 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year corresponding to the tax year in which the distribution is made.

***Co-operative companies***

- (6) A Maori authority that is also a co-operative company may attach a Maori authority credit to a notional distribution. The provisions of section MB 72 (Co-operative companies attaching imputation credits to notional distributions) apply to the notional distribution as if references in that section to—
- (a) an imputation credit were a reference to a Maori authority credit; and
  - (b) an imputation credit account were a reference to a Maori authority credit account.

***Retrospective attachment***

- (7) A Maori authority may retrospectively attach a Maori authority credit to a taxable Maori authority distribution.

***Application of other provisions***

- (8) The provisions of section MB 57 (Retrospective attachment of imputation credits) apply to a distribution under this section as if a reference in that section to—
- (a) an imputation credit were a reference to a Maori authority credit; and

- (b) an imputation credit account were a reference to a Maori authority credit account.

Defined in this Act: amount, basic rate, co-operative company, imputation credit, imputation credit account, income tax, income year, Maori authority, Maori authority credit, Maori authority credit account, Maori authority credit ratio, tax year, taxable Maori authority distribution

Origin: 2004 No 35 ss MK 6, MK 7(1)

## **MK 20 MACA benchmark distribution rules**

### ***When this section applies***

- (1) This section applies when a Maori authority pays a taxable Maori authority distribution on more than 1 occasion during a tax year.

### ***Benchmark distribution***

- (2) The first distribution of the tax year is the benchmark distribution.

### ***Same Maori authority credit ratio***

- (3) The Maori authority credit ratio of a distribution made after the benchmark distribution must be the same as the Maori authority credit ratio of the benchmark distribution.

### ***Debit for breach of Maori authority credit ratio***

- (4) A breach of subsection (3) gives rise to a Maori authority debit described in table M18: Maori authority debits, row 8, (breach of Maori authority credit ratio) for an amount calculated using the formula in section MK 16(1).

### ***Ratio change declaration***

- (5) To prevent the consequences of a breach of subsection (4), a Maori authority may notify the Commissioner that the distribution is not part of an arrangement to obtain a tax advantage by providing a ratio change declaration stating that the distribution is not part of an arrangement to which section GC 22 (Imputation: arrangement to obtain tax advantage) applies. The Maori authority must provide the declaration before the distribution is made, or by a later date if the Commissioner allows. For the purposes of this subsection, the distribution must not be part of an arrangement to obtain a tax advantage.

Defined in this Act: amount, arrangement, benchmark distribution, Commissioner, Maori authority, Maori authority credit ratio, Maori authority debit, notify, pay, tax advantage, taxable Maori authority distribution, tax year

Origin: 2004 No 35 s MK 7(2), (3), (4)

## *Further income tax*

### **MK 21 Further income tax for closing debit balance**

#### *Liability*

- (1) A Maori authority is liable to pay further income tax for the amount of a debit balance in its Maori authority credit account at the end of a tax year.

#### *Due date*

- (2) The Maori authority must pay the further income tax to the Commissioner no later than the 20 June following the end of the tax year.

#### *Application of other provisions*

- (3) When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—
  - (a) apply to further income tax as if they addressed further income tax and not income tax; and
  - (b) apply, modified as necessary, to ensure their application to the further income tax rather than income tax; and
  - (c) do not override the imputation rules and section 101 of the Tax Administration Act 1994.

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

Origin: 2004 No 35 s MK 8(1), (2), (6)

### **MK 22 Further income tax when Maori authority no longer Maori authority**

#### *Liability*

- (1) A Maori authority is liable to pay further income tax for a debit balance in its Maori authority credit account just before the Maori authority stops being a Maori authority.

#### *Due date*

- (2) The Maori authority must pay the further income tax to the Commissioner by the day on which the Maori authority stops being a Maori authority.

#### *Paramount section*

- (3) A Maori authority that stops being a Maori authority on the last day of a tax year is liable for further income tax under this section and not under section MK 21.

***Application of other provisions***

- (4) When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—
- (a) apply to further income tax as if they addressed further income tax and not income tax; and
  - (b) apply, modified as necessary, to ensure their application to the further income tax rather than income tax; and
  - (c) do not override the imputation rules and section 101 of the Tax Administration Act 1994.

Defined in this Act: Commissioner, further income tax, imputation rules, income tax, Maori authority, Maori authority credit account, pay, tax year

Origin: 2004 No 35 s MK 8(3), (4), (6)

**MK 23 Further income tax paid satisfying liability for income tax**

***Election***

- (1) A Maori authority that is liable for income tax or provisional tax may choose to satisfy the liability through a payment of further income tax.

***Requirements***

- (2) The liability referred to in subsection (1) must be for an income year corresponding to a tax year in which the Maori authority maintained a Maori authority credit account.

***When treated as paid***

- (3) The income tax or provisional tax is treated as paid on the day the further income tax is paid to the Commissioner.

Defined in this Act: Commissioner, further income tax, income tax, income year, Maori authority, Maori authority credit account, pay, provisional tax, tax year

Origin: 2004 No 35 s MK 8(5)

**MK 24 Income tax paid satisfying liability for further income tax**

***Election***

- (1) A Maori authority that is liable for further income tax may choose to satisfy the liability through a payment of income tax.

***Requirements***

- (2) The liability referred to in subsection (1) must be for an income year corresponding to a tax year in which the Maori authority maintained a Maori authority credit account.

***When treated as paid***

- (3) The further income tax is treated as paid on the day the income tax is paid to the Commissioner.

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

Origin: 2004 No 35 s MK 8(5B)

## **Subpart MP—Memorandum accounts of consolidated groups**

### Contents

#### *General provisions*

- MP 1 Memorandum accounts of consolidated groups
- MP 2 When credits and debits arise only in group accounts

#### *Consolidated groups and imputation credit accounts*

##### *Introductory provisions*

- MP 3 Changes in consolidated imputation groups
- MP 4 Resident imputation subgroups
- MP 5 When credits and debits arise only in consolidated imputation group accounts
- MP 6 Provisions applying to consolidated imputation groups

##### *Imputation credits of consolidated imputation groups*

Table M19: imputation credits of consolidated imputation groups

- MP 7 Consolidated ICA payment of tax
- MP 8 Consolidated ICA deposit in tax pooling account
- MP 9 Consolidated ICA transfer from tax pooling account
- MP 10 Consolidated ICA allocation from excess company
- MP 11 Consolidated ICA payment of further income tax
- MP 12 Consolidated ICA derivation of dividend with imputation credit
- MP 13 Consolidated ICA derivation of dividend with FDWP credit
- MP 14 Consolidated ICA payment of FDWP
- MP 15 Consolidated ICA deduction of resident withholding tax
- MP 16 Consolidated ICA transfer from group company's FDWP account
- MP 17 Consolidated ICA transfer from group's FDWP account
- MP 18 Consolidated ICA transfer from group company's policyholder credit account
- MP 19 Consolidated ICA transfer from group's policyholder credit account
- MP 20 Consolidated ICA group company's credit
- MP 21 Consolidated ICA elimination of double debit
- MP 22 Consolidated ICA reversal of tax advantage arrangement



Part M—Memorandum accounts  
Subpart MP—Memorandum accounts of consolidated groups  
201

- MP 23 Consolidated ICA deduction of non-resident withholding tax
- MP 24 Consolidated ICA deduction from withholding payment
- MP 25 Consolidated ICA payment of schedular income tax

*Imputation debits of consolidated imputation groups*

Table M20: imputation debits of consolidated imputation groups

- MP 26 Consolidated ICA payment of dividend
- MP 27 Consolidated ICA allocation of provisional tax
- MP 28 Consolidated ICA refund of income tax
- MP 29 Consolidated ICA amount applied to pay other taxes
- MP 30 Consolidated ICA refund from tax pooling account
- MP 31 Consolidated ICA transfer to tax pooling account
- MP 32 Consolidated ICA refund of FDWP
- MP 33 Consolidated ICA refund of tax credit
- MP 34 Consolidated ICA overpayment of FDWP
- MP 35 Consolidated ICA group company's debit
- MP 36 Consolidated ICA transfer for net foreign attributed income
- MP 37 Consolidated ICA debit for loss of shareholder continuity
- MP 38 Consolidated ICA breach of imputation ratio
- MP 39 Consolidated ICA transfer to policyholder credit account
- MP 40 Consolidated ICA redemption debit
- MP 41 Consolidated ICA tax advantage arrangement
- MP 42 Consolidated ICA final balance
- MP 43 Consolidated ICA refund of non-resident withholding tax
- MP 44 Consolidated ICA refund of withholding payment
- MP 45 Consolidated ICA refund of schedular income tax

*Consolidated groups and FDWP accounts*

*Introductory provisions*

- MP 46 FDWP accounts of consolidated FDWP groups
- MP 47 Choosing to stop being consolidated FDWP group
- MP 48 When credits and debits arise only in consolidated FDWP group accounts
- MP 49 Provisions applying to consolidated FDWP groups

*FDWP credits of consolidated FDWP groups*

Table M21: FDWP credits of consolidated FDWP groups

MP 50	Consolidated FDWPA payment of FDWP
MP 51	Consolidated FDWPA payment of further FDWP
MP 52	Consolidated FDWPA derivation of dividend with FDWP credit
MP 53	Consolidated FDWPA group company's credit
MP 54	Consolidated FDWPA transfer from group's conduit tax relief account
MP 55	Consolidated FDWPA transfer for net foreign attributed income
MP 56	Consolidated FDWPA reversal of tax advantage arrangement

*FDWP debits of consolidated FDWP groups*

Table M22: FDWP debits of consolidated FDWP groups

MP 57	Consolidated FDWPA payment of dividend
MP 58	Consolidated FDWPA refund of FDWP
MP 59	Consolidated FDWPA overpayment of FDWP
MP 60	Consolidated FDWPA refund of tax credit
MP 61	Consolidated FDWPA transfer to imputation credit account
MP 62	Consolidated FDWPA transfer to group's conduit tax relief account
MP 63	Consolidated FDWPA group company's debit
MP 64	Consolidated FDWPA breach of FDWP ratio
MP 65	Consolidated FDWPA debit for loss of shareholder continuity
MP 66	Consolidated FDWPA transfer to policyholder credit account
MP 67	Consolidated FDWPA breach of FDWP ratio by PCA company
MP 68	Consolidated FDWPA tax advantage arrangement
MP 69	Consolidated FDWPA final balance

*Consolidated companies and conduit tax relief accounts*

*Introductory provisions*

MP 70	Conduit tax relief accounts of consolidated groups
MP 71	When credits and debits arise only in conduit tax relief group accounts
MP 72	Provisions applying to consolidated groups with conduit tax relief accounts

*Conduit tax relief credits of consolidated groups*

Table M23: conduit tax relief accounts of consolidated groups

MP 73	Consolidated CTRA rebate for conduit tax relief
-------	---

- MP 74 Consolidated CTRA reduction of FDWP
- MP 75 Consolidated CTRA derivation of dividend with conduit tax relief credit
- MP 76 Consolidated CTRA group company's credit
- MP 77 Consolidated CTRA transfer from group's FDWP account
- MP 78 Consolidated CTRA reversal of tax advantage arrangement

*Conduit tax relief debits of consolidated groups*

Table M24: conduit tax relief debits of consolidated groups

- MP 79 Consolidated CTRA payment of dividend
- MP 80 Consolidated CTRA transfer to group's FDWP account
- MP 81 Consolidated CTRA adjustment for conduit tax relief
- MP 82 Consolidated CTRA group company's debit
- MP 83 Consolidated CTRA increase in resident shareholding
- MP 84 Consolidated CTRA breach of conduit tax relief ratio
- MP 85 Consolidated CTRA tax advantage arrangement
- MP 86 Consolidated CTRA final balance

*Consolidated groups' FDWP payments and refunds*

- MP 87 FDWP payable for credits and debits in group's conduit tax relief account
- MP 88 Refund on transfer from group's FDWP account

*Consolidated groups and branch equivalent tax accounts*

*Introductory provisions*

- MP 89 Branch equivalent tax accounts of consolidated BETA groups
- MP 90 Choosing to stop being consolidated BETA group
- MP 91 When credits and debits arise only in branch equivalent tax group accounts

*Branch equivalent tax credits of consolidated BETA groups*

Table M25: branch equivalent tax credits of consolidated BETA groups

- MP 92 Consolidated BETA payment of income tax on foreign income
- MP 93 Consolidated BETA payment of income tax
- MP 94 Consolidated BETA remaining debit balances
- MP 95 Consolidated BETA refund of FDWP
- MP 96 Consolidated BETA credit for loss of shareholder continuity

*Branch equivalent tax debits of consolidated BETA groups*

Table M26: branch equivalent tax debits of consolidated BETA groups

- MP 97 Consolidated BETA payment of FDWP
- MP 98 Consolidated BETA reduction of FDWP
- MP 99 Consolidated BETA refund of income tax
- MP 100 Consolidated BETA debit for loss of shareholder continuity

*Consolidated groups and policyholder credit accounts*

*Introductory provision*

- MP 101 Policyholder credit accounts of consolidated groups

*Policyholder credits of consolidated groups*

Table M27: policyholder credits of consolidated groups

- MP 102 Consolidated PCA transfer from imputation credit account
- MP 103 Consolidated PCA transfer from FDWP account
- MP 104 Consolidated PCA group company's credit
- MP 105 Consolidated PCA maximum deficit debit in FDWP account
- MP 106 Consolidated PCA reduced deficit debit in FDWP account

*Policyholder debits of consolidated groups*

Table M28: policyholder debits of consolidated groups

- MP 107 Consolidated PCA payment of tax relating to policyholder base
- MP 108 Consolidated PCA transfer to imputation credit account

## *General provisions*

### **MP 1 Memorandum accounts of consolidated groups**

#### *Single company*

- (1) For the purposes of this Part, a consolidated group is treated as if it were a single company, and sections HB 1 and HB 2 (which relate to the treatment of consolidated groups) apply to the group.

#### *Consolidated group accounts*

- (2) A consolidated group may—
- (a) be required to maintain a memorandum account for a tax year; or
  - (b) be entitled to maintain a memorandum account for a tax year.

#### *Separate accounts*

- (3) A consolidated group's memorandum account is separate from the memorandum account of each company in the group.

#### *General rules*

- (4) The general rules on memorandum accounts set out in sections MA 2 and MA 3 (which relate to the treatment of memorandum accounts) apply to a memorandum account of a consolidated group.

#### *Tables*

- (5) The credits and debits that arise in a memorandum account are listed in tables in this subpart. The tables—
- (a) state the credits and the debits; and
  - (b) state the credit dates and debit dates when the credits and debits arise; and
  - (c) refer to the section that fully defines them, and provides the credit dates and debit dates for each credit and debit.

Defined in this Act: company, consolidated group, memorandum account, tax year

Origin: 2004 No 35 ss ME 10, ME 25, MF 7, MG 13, MI 14

## **MP 2 When credits and debits arise only in group accounts**

### ***Credits only in group account***

- (1) A credit may arise only in the memorandum account of a consolidated group and not in the memorandum account of a group company, unless another provision expressly states otherwise.

### ***Debits only in group account***

- (2) A debit may arise only in the memorandum account of a consolidated group and not in the memorandum account of a group company, unless another provision expressly states otherwise.

### ***Particular credits and debits***

- (3) The credit referred to in subsection (1) and the debit referred to in subsection (2) are listed in provisions in this subpart.

### ***Company's obligation overridden***

- (4) This section applies despite—
- (a) the obligation that a group company may have under this Part to record a credit or debit; and
  - (b) the fact that the credit and debit referred to in this section may otherwise be eligible to give rise to a credit or debit in the group company's account.

Defined in this Act: company, consolidated group, memorandum account

Origin: 2004 No 35 ss ME 13, ME 27, MF 9, MG 16, MI 19

## ***Consolidated groups and imputation credit accounts***

### ***Introductory provisions***

## **MP 3 Changes in consolidated imputation groups**

### ***New group company***

- (1) A consolidated imputation group continues to have the same imputation credit account if the group starts an imputation group with a company that is not part of another consolidated group.

***Combining consolidated groups***

- (2) Two consolidated imputation groups that choose to combine to form 1 imputation group must record in the imputation credit account of the new group—
- (a) all credits and debits in the imputation credit accounts of the 2 groups just before the election takes effect; and
  - (b) all credits and debits that arise for a group company that is part of the new group on and after the election takes effect.

***Imputation group becoming consolidated imputation group***

- (3) A consolidated imputation group continues to use the imputation credit account of an imputation group if the companies that are part of the imputation group choose to convert their status to that of a consolidated imputation group.

***Opening balances***

- (4) The opening balances for the imputation credit account of the consolidated imputation group referred to in subsection (3) are described in section MA 7 (Opening balances of memorandum accounts).

Defined in this Act: company, consolidated group, consolidated imputation group, imputation credit account, imputation group

Origin: 2004 No 35 s ME 10(1A), (1B), (1D)

**MP 4 Resident imputation subgroups**

***Subgroup of trans-Tasman imputation group***

- (1) The resident imputation subgroup of a trans-Tasman imputation group must record in its imputation credit account the credits and debits described in subsection (2).

***Eligible credits and debits***

- (2) The credits and debits referred to in subsection (1) are those that arise in the imputation credit account of the subgroup's trans-Tasman imputation group in relation to a company that—
- (a) will be part of the subgroup if the credit or debit arises before the subgroup is formed; or
  - (b) is part of the subgroup if the credit or debit arises when or after the subgroup is formed.

Defined in this Act: company, imputation credit account, imputation group, resident imputation subgroup, trans-Tasman imputation group

Origin: 2004 No 35 s ME 10(1C)

**MP 5 When credits and debits arise only in consolidated imputation group accounts**

***Credits only in group account***

- (1) A credit listed in subsection (2) arises only in the imputation credit account of a consolidated imputation group and not in the imputation credit account of a group company.

***Particular credits***

- (2) The credit referred to in subsection (1) is a credit described in the following rows of table M19: imputation credits of consolidated imputation groups:
- (a) row 2 (payment of tax):
  - (b) row 3 (deposit in tax pooling account):
  - (c) row 7 (derivation of dividend with imputation credit):
  - (d) row 8 (derivation of dividend with FDWP credit):
  - (e) row 9 (payment of FDWP).

***Debits only in the group account***

- (3) A debit listed in subsection (4) arises only in the imputation credit account of a consolidated imputation group and not in the imputation credit account of a group company.

***Particular debits***

- (4) The debit referred to in subsection (3) is a debit described in the following rows of table M20: imputation debits of consolidated imputation groups:
- (a) row 2 (payment of dividend):
  - (b) row 4 (refund of income tax):
  - (c) row 6 (refund from tax pooling account):
  - (d) row 7 (transfer to tax pooling account):
  - (e) row 8 (refund of FDWP):
  - (f) row 9 (refund of tax credit):
  - (g) row 11 (group company's debit):
  - (h) row 14 (breach of imputation ratio).

Defined in this Act: company, consolidated imputation group, dividend, FDWP, FDWP credit, imputation credit, imputation credit account, imputation ratio, income tax, pay, tax

Origin: 2004 No 35 s ME 12(1)



## **MP 6 Provisions applying to consolidated imputation groups**

### ***Single company, tax liabilities***

- (1) The provisions listed in subsection (2) apply, modified as necessary, to a consolidated imputation group and to the imputation credit account of the group as if—
  - (a) the group were a single company; and
  - (b) a reference to a company's liability for further income tax, late payment penalty, or imputation penalty tax were a reference to a joint and several liability owed by group companies when the tax or penalty becomes payable.

### ***Other provisions***

- (2) The provisions are—
  - (a) sections MB 58 and MB 59 (which relate to further income tax); and
  - (b) sections 97, 101, 139B, 140B, 140D, and 180 of the Tax Administration Act 1994.

### ***Consolidation provisions***

- (3) Section HB 1(2) to (5) (Returns, assessments, and liability of consolidated group) overrides subsection (1)(b).

Defined in this Act: company, consolidated imputation group, further income tax, imputation credit account, imputation penalty tax, pay

Origin: 2004 No 35 s ME 14(3)

*Imputation credits of consolidated imputation groups*

**Table M19: imputation credits of consolidated imputation groups**

Row	Imputation credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April or when the group starts	section MA 7
2	<i>Payment of tax</i>		
	Income tax paid for a group tax liability	day of payment	section MP 7
3	<i>Deposit in tax pooling account</i>		
	Group funds paid into a tax pooling account	day of payment	section MP 8
4	<i>Transfer from tax pooling account</i>		
	A transfer from a tax pooling account	day of credit or refund	section MP 9
5	<i>Allocation from excess company</i>		
	An allocation from an excess company	day of notice of the allocation	section MP 10
6	<i>Payment of further income tax</i>		
	Further income tax paid	day of payment	section MP 11
7	<i>Derivation of dividend with imputation credit</i>		
	An imputation credit attached to a dividend derived	day the dividend is paid	section MP 12
8	<i>Derivation of dividend with FDWP credit</i>		
	An FDWP credit attached to a dividend derived	day the dividend is paid	section MP 13
9	<i>Payment of FDWP</i>		
	FDWP paid by a group company	day of payment	section MP 14
10	<i>Deduction of resident withholding tax</i>		
	A deduction of resident withholding tax	day the interest is paid	section MP 15
11	<i>Transfer from group company's FDWP account</i>		
	A transfer from a group company's FDWP account	debit date for the transfer	section MP 16
12	<i>Transfer from consolidated group's FDWP account</i>		
	A transfer from a consolidated group's FDWP account	debit date for the transfer	section MP 17
13	<i>Transfer from company's policyholder credit account</i>		
	A transfer from a company's policyholder credit account	debit date for the transfer	section MP 18

14	<i>Transfer from group's policyholder credit account</i>		
	A transfer from a consolidated group's policyholder credit account	debit date for the transfer	section MP 19
15	<i>Group company's credit</i>		
	A group company's credit	set out in section MP 20	section MP 20
16	<i>Elimination of double debit</i>		
	A debit for loss of shareholder continuity that cancels a credit for a tax pooling account deposit that is refunded	day of refund	section MP 21
17	<i>Reversal of tax advantage arrangement</i>		
	The reversal of a debit for a tax advantage arrangement	debit date for the debit	section MP 22
18	<i>Deduction of non-resident withholding tax</i>		
	Non-resident withholding tax paid on non-resident withholding income derived by a group company that is an Australian ICA company	day of deduction	section MP 23
19	<i>Deduction from withholding payment</i>		
	A tax deduction from a withholding payment paid to a group company that is also an Australian ICA company	day tax deduction is withheld	section MP 24
20	<i>Payment of schedular income tax</i>		
	Schedular income tax paid by a group company that is an Australian ICA company	day of payment	section MP 25
<p><b>How to use this table</b></p> <p>Each row in the table describes—</p> <p>(a) the imputation credits that may arise in the imputation credit account of a consolidated imputation group during a tax year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the imputation credits and, as necessary, credit dates is contained in the section noted in the last column.</p>			

## MP 7 Consolidated ICA payment of tax

### *Credit*

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 2 (payment of tax) for a payment of income tax. Subsection (2) overrides this subsection.

*No credit*

- (2) A consolidated imputation group does not have an imputation credit for an amount of—
- (a) income tax paid as a trustee, unless paid on category A income; or
  - (b) a transfer from a tax pooling account to a tax account with the Commissioner; or
  - (c) income tax paid on income derived by a company that is not an ICA company; or
  - (d) income tax paid by crediting an amount under subpart LE (Non-resident investors); or
  - (e) further income tax applied under section MB 58 or MB 59 (which relate to further income tax) to pay income tax or provisional tax; or
  - (f) income tax paid under section LB 2(2) (Credit of tax for imputation credit) by crediting an imputation credit; or
  - (g) income tax paid under section LD 8(1) (Credit of tax for dividend withholding payment credit in hands of shareholder) by crediting an FDWP credit; or
  - (h) income tax paid by a life insurer subject to section EY 47 (Non-resident life insurers with life insurance policies in New Zealand) to satisfy the tax year's policyholder base income tax liability; or
  - (i) income tax paid by crediting further income tax under section MB 62(3) (Further income tax paid satisfying income tax).

*Credit date*

- (3) The credit date is the day the tax is paid.

Defined in this Act: amount, category A income, Commissioner, company, consolidated imputation group, FDWP credit, further income tax, ICA company, imputation credit, imputation credit account, income, income tax, life insurer, pay, policyholder base income tax liability, provisional tax, tax year, trustee

Origin: 2004 No 35 s ME 11(1)(a), (2)(a)

**MP 8 Consolidated ICA deposit in tax pooling account**

*Credit*

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 3 (deposit in tax pooling account) for an amount provided by it and paid by an intermediary into a tax pooling account.

*Credit date*

- (2) The credit date is the day the amount is deposited.

Defined in this Act: amount, consolidated imputation group, imputation credit, intermediary, pay

Origin: 2004 No 35 s ME 11(1)(aa), (2)(aa)

### **MP 9 Consolidated ICA transfer from tax pooling account**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 4 (transfer from tax pooling account) for an amount that represents an entitlement to funds held in a tax pooling account and transferred by an intermediary.

#### ***Credit date***

- (2) The credit date is—
- (a) the effective date under section MBA 6 (Transfers from tax pooling account) of the Income Tax Act 2004 if the amount is transferred to the group's tax account with the Commissioner; or
  - (b) the day the refund is made.

Defined in this Act: amount, Commissioner, consolidated imputation group, imputation credit, intermediary

Origin: 2004 No 35 s ME 11(1)(ab), (2)(ab)

### **MP 10 Consolidated ICA allocation from excess company**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 5 (allocation from excess company) for an amount allocated from an excess company under section MB 9 (Payments to be set off within wholly-owned group) of the Income Tax Act 2004.

#### ***Credit date***

- (2) The credit date is the day the Commissioner is notified of the allocation.

Defined in this Act: amount, company, consolidated imputation group, imputation credit, notify

Origin: 2004 No 35 s ME 11(1)(b), (2)(b)

### **MP 11 Consolidated ICA payment of further income tax**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 6 (payment of further income tax) for an amount of further income tax paid under section MB 58 or MB 59 (which relate to further income tax).

#### ***Credit date***

- (2) The credit date is the day the further income tax is paid.

Defined in this Act: amount, consolidated imputation group, further income tax, imputation credit, pay

Origin: 2004 No 35 s ME 11(1)(c), (2)(a)

### **MP 12 Consolidated ICA derivation of dividend with imputation credit**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 7 (derivation of dividend with imputation credit) for the amount of an imputation credit attached to a dividend derived by a group company.

#### ***Credit date***

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, company, consolidated imputation group, dividend, imputation credit, pay

Origin: 2004 No 35 s ME 11(1)(d), (2)(c)

### **MP 13 Consolidated ICA derivation of dividend with FDWP credit**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 8 (derivation of dividend with FDWP credit) for the amount of an FDWP credit attached to a dividend derived by a group company that—

- (a) is part of a consolidated group without an FDWP account; or
- (b) does not have an FDWP account and is not part of a consolidated group.

***Credit date***

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, consolidated group, consolidated imputation group, dividend, FDWP account, FDWP credit, imputation credit

Origin: 2004 No 35 s ME 11(1)(e), (2)(c)

**MP 14 Consolidated ICA payment of FDWP**

***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 9 (payment of FDWP) for the amount of FDWP that is paid by a group company that—
- (a) is part of a consolidated group without an FDWP account; or
  - (b) does not have an FDWP account and is not part of a consolidated group.

***No credit***

- (2) Despite subsection (1), no credit arises for FDWP paid under section NH 3(2) or (3) (Payment and recovery of dividend withholding payment) by the reduction of a net loss.

***Credit date***

- (3) The credit date is the day the FDWP is paid.

Defined in this Act: amount, consolidated group, consolidated imputation group, FDWP, FDWP account, imputation credit, imputation credit account, net loss, pay

Origin: 2004 No 35 s ME 11(1)(f), (2)(a)

**MP 15 Consolidated ICA deduction of resident withholding tax**

***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 10 (deduction of resident withholding tax) for a payment of resident withholding tax that is treated under section NF 12(b) (Amount of resident withholding tax deduction deemed to have been received) as derived by a group company.

***Credit date***

- (2) The credit date is the day the interest or dividend relating to the resident withholding tax is paid.

Defined in this Act: company, consolidated imputation group, dividend, imputation credit, interest, resident withholding tax

Origin: 2004 No 35 s ME 11(1)(j), (2)(c)

### **MP 16 Consolidated ICA transfer from group company's FDWP account**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 11 (transfer from group company's FDWP account) for an amount equal to the amount of an FDWP debit described in table M4: FDWP debits, row 6 (transfer to imputation credit account) transferred from the FDWP account of a group company.

#### ***Credit date***

- (2) The credit date is the same as the debit date for the transfer.

Defined in this Act: amount, company, consolidated imputation group, FDWP account, FDWP debit, imputation credit, imputation credit account

Origin: 2004 No 35 s ME 11(1)(fb), (2)(fb)

### **MP 17 Consolidated ICA transfer from group's FDWP account**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 12 (transfer from consolidated group's FDWP account) for an amount equal to the amount transferred under section NH 6(6) (Application of specific dividend withholding payment provisions to consolidated groups) from the FDWP account of a consolidated group.

#### ***Credit date***

- (2) The credit date is the same as the debit date for the transfer.

Defined in this Act: amount, consolidated group, consolidated imputation group, FDWP account, imputation credit, imputation credit account

Origin: 2004 No 35 s ME 11(1)(g)



### **MP 18 Consolidated ICA transfer from group company's policyholder credit account**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 13 (transfer from company's policyholder credit account) for an amount equal to the amount of a debit described in table M14: policyholder debits, row 3 (transfer to imputation credit account) for the transfer of a credit balance from a group company's policyholder credit account.

#### ***Credit date***

- (2) The credit date is the same as the debit date for the transfer.

Defined in this Act: amount, company, consolidated imputation group, imputation credit, imputation credit account, policyholder credit account, policyholder debit

Origin: 2004 No 35 s ME 11(1)(jb), (2)(eb)

### **MP 19 Consolidated ICA transfer from group's policyholder credit account**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 14 (transfer from group's policyholder credit account) for an amount equal to the amount of a debit described in table M28: policyholder debits of consolidated groups, row 3 (transfer to imputation credit account) for a transfer from the policyholder credit account of a consolidated group.

#### ***Credit date***

- (2) The credit date is the same as the debit date for the transfer.

Defined in this Act: amount, consolidated group, consolidated imputation group, imputation credit, imputation credit account, policyholder credit account

Origin: 2004 No 35 s ME 11(1)(k), (2)(d)

### **MP 20 Consolidated ICA group company's credit**

#### ***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 15 (group company's credit) for the amount of a credit that arises when—
  - (a) an imputation credit described in table M1: imputation credits, arises in the imputation credit account of a group company; and

- (b) an imputation debit described in table M20: imputation debits of consolidated imputation groups, arises in the imputation credit account of the group; and
- (c) the debit is not offset by a credit arising in the group account before or after the credit arose in the group company's account.

***Offsetting debits***

- (2) For the purposes of subsection (1)(c), to determine whether a debit has been offset by a credit in the group account,—
  - (a) credits are treated as reducing debits in the order in which the credits arise; and
  - (b) a credit, whether some or all, is counted only once in determining whether a debit has been offset; and
  - (c) credits in the accounts of more than 1 group company become a credit to the group account—
    - (i) in the order of their credit date; and
    - (ii) as chosen by the group, if credits arise on the same credit date; and
    - (iii) on a pro rata basis, if no election is made under subparagraph (ii).

***Credit date***

- (3) The credit date is same as the debit date for the debit to the group account.

Defined in this Act: amount, company, consolidated imputation group, imputation credit, imputation credit account, imputation debit

Origin: 2004 No 35 s ME 13(2), (3)

**MP 21 Consolidated ICA elimination of double debit**

***When this section applies***

- (1) This section applies when an imputation debit in a consolidated imputation group's imputation credit account described in table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity) has the effect of cancelling an imputation credit described in table M19: imputation credits of consolidated imputation groups, row 3 (deposit in tax pooling account).

***Credit***

- (2) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 16 (elimination of double debit) for an amount that equals the amount of the debit referred to in subsection (1), and either—
  - (a) another debit as described in table M20: imputation debits of consolidated imputation groups, row 6 (refund from tax pooling account) arises for a

refund or transfer of the deposit on a debit date that is after the debit date for the debit for loss of shareholder continuity; or

- (b) the deposit is taken into account under section MBA 6 (Transfers from tax pooling account) of the Income Tax Act 2004 in determining the balance of the company's tax account with the Commissioner after the debit date for the debit for loss of shareholder continuity.

***Credit date***

- (3) The credit date is the day—
  - (a) the deposit is refunded; or
  - (b) a credit arises in the company's tax account with the Commissioner.

Defined in this Act: amount, Commissioner, company, consolidated imputation group, deposit, imputation credit, imputation credit account, imputation debit, shareholder

Origin: 2004 No 35 s ME 11(1A), (2A)

**MP 22 Consolidated ICA reversal of tax advantage arrangement**

***Credit***

- (1) A consolidated imputation group has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 17 (reversal of tax advantage arrangement) for an amount equal to the amount of a debit in the group's account described in table M20: imputation debits of consolidated imputation groups, row 17 (tax advantage arrangement).

***Credit date***

- (2) The credit date is the same as the debit date for the debit.

Defined in this Act: amount, arrangement, consolidated imputation group, imputation credit, imputation credit account, tax advantage

Origin: 2004 No 35 s ME 11(1)(i), (2)(e)

**MP 23 Consolidated ICA deduction of non-resident withholding tax**

***Credit***

- (1) A consolidated imputation group that includes an Australian ICA company has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 18 (deduction of non-resident withholding tax) for the amount of a payment of non-resident withholding tax on non-resident withholding income derived by the company.

***Credit date***

- (2) The credit date is the day the non-resident withholding tax is deducted.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, imputation credit account, non-resident withholding income, non-resident withholding tax, pay

Origin: 2004 No 35 s ME 11(1B)(a), (2B)(a)

**MP 24 Consolidated ICA deduction from withholding payment**

***Credit***

- (1) A consolidated imputation group that includes an Australian ICA company has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 19 (deduction from withholding payment) for the amount of a deduction from a withholding payment paid to the company as a non-resident contractor.

***Credit date***

- (2) The credit date is the day the deduction is withheld.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, imputation credit account, non-resident, withholding payment

Origin: 2004 No 35 s ME 11(1B)(b), (2B)(b)

**MP 25 Consolidated ICA payment of schedular income tax**

***Credit***

- (1) A consolidated imputation group that includes an Australian ICA company has an imputation credit as described in table M19: imputation credits of consolidated imputation groups, row 20 (payment of schedular income tax) for the amount of a payment by the company of schedular income tax for income derived under section FC 13, FC 14, FC 18, or FC 21 (which relate to non-resident insurers, shippers, and film renters).

***Credit date***

- (2) The credit date is the day the schedular income tax is paid.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, imputation credit account, income, pay, schedular income tax

Origin: 2004 No 35 s ME 11(1B)(c), (2B)(c)

*Imputation debits of consolidated imputation groups*

**Table M20: imputation debits of consolidated imputation groups**

Row	Imputation debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April or when the group starts	section MA 7
2	<i>Payment of dividend</i>		
	An imputation credit attached to a dividend paid by a group company	day of payment	section MP 26
3	<i>Allocation of provisional tax</i>		
	Provisional tax allocated by a group to an underpaid company	day of notice of the allocation	section MP 27
4	<i>Refund of income tax</i>		
	A refund of income tax or provisional tax to a group	day of refund	section MP 28
5	<i>Amount applied to pay other taxes</i>		
	Income tax overpaid that is applied to satisfy an amount of tax (other than income tax) owing by a group company	day of application	section MP 29
6	<i>Refund from tax pooling account</i>		
	A refund from a tax pooling account	set out in section MP 30	section MP 30
7	<i>Transfer to tax pooling account</i>		
	A transfer to another taxpayer of funds in a tax pooling account	set out in section MP 31	section MP 31
8	<i>Refund of FDWP</i>		
	A refund of FDWP when no FDWP account	day of refund	section MP 32
9	<i>Refund of tax credit</i>		
	A refund of a tax credit	day of refund	section MP 33
10	<i>Overpayment of FDWP</i>		
	Overpaid FDWP applied, when a group does not have an FDWP account, to satisfy an amount owing that is not income tax or FDWP	day of application	section MP 34
11	<i>Group company's debit</i>		
	A debit that would increase a debit balance for a group company	set out in section MP 35	section MP 35

Part M—Memorandum accounts  
Subpart MP—Memorandum accounts of consolidated groups  
222

12	<i>Transfer for net foreign attributed income</i>		
	A transfer to an FDWP account on account of net foreign attributed income for an income year	set out in section MP 36	section MP 36
13	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity	day of loss of continuity	section MP 37
14	<i>Breach of imputation ratio</i>		
	A debit for breach of imputation ratio	31 March	section MP 38
15	<i>Transfer to policyholder credit account</i>		
	A transfer to a policyholder credit account of a group or a group company	day of election	section MP 39
16	<i>Redemption debit</i>		
	A redemption debit for a unit trust or group investment fund for an income year	day the return of income for the income year is filed	section MP 40
17	<i>Tax advantage arrangement</i>		
	A debit for a tax advantage arrangement	last day of the tax year in which the arrangement began	section MP 41
18	<i>Final balance</i>		
	A credit balance of a group's imputation credit account when the group stops being a consolidated imputation group	day of cessation	section MP 42
19	<i>Refund of non-resident withholding tax</i>		
	A refund of non-resident withholding tax to a group company that is an Australian ICA company	day of refund	section MP 43
20	<i>Refund of withholding payment</i>		
	A refund of withholding payment to a group company that is an Australian ICA company	day of refund	section MP 44
21	<i>Refund of schedular income tax</i>		
	A refund of schedular income tax to a group company that is an Australian ICA company	day of refund	section MP 45

**How to use this table**

Each row in the table describes—

- (a) the imputation debits that may arise in the imputation credit account of a consolidated imputation group during a tax year; and
- (b) the debit date when the debit arises.

A more detailed description of the imputation debits and, as necessary, debit dates is contained in the section noted in the last column.

### **MP 26 Consolidated ICA payment of dividend**

#### ***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 2 (payment of dividend) for an amount that equals the amount of an imputation credit attached to a dividend paid by a group company.

#### ***Debit date***

- (2) The debit date is the day the dividend is paid.

Defined in this Act: amount, company, consolidated imputation group, dividend, imputation credit, imputation debit

Origin: 2004 No 35 s ME 12(1)(a), (2)(a)

### **MP 27 Consolidated ICA allocation of provisional tax**

#### ***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 3 (allocation of provisional tax) for an amount of provisional tax allocated by the group under section MB 9 (Payments to be set off within wholly-owned group) of the Income Tax Act 2004 to an underpaid company.

#### ***Debit date***

- (2) The debit date is the day the Commissioner is notified of the allocation.

Defined in this Act: amount, company, consolidated imputation group, imputation debit, notify, provisional tax

Origin: 2004 No 35 s ME 12(1)(c), (2)(c)

### **MP 28 Consolidated ICA refund of income tax**

#### ***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 4 (refund of income tax) for the amount of a refund of income tax or provisional tax paid to the group. Subsection (2) overrides this subsection.

#### ***No debit***

- (2) The debit does not include a refund of income tax paid before a debit described in table M20: imputation debits of consolidated imputation groups, row 13 (debit for

loss of shareholder continuity) arises to the extent to which the amount of the refund is less than the amount of the debit.

***Debit date***

- (3) The debit date is the day the refund is made.

Defined in this Act: amount, consolidated imputation group, imputation debit, income tax, pay, provisional tax, shareholder

Origin: 2004 No 35 s ME 12(1)(d), (2)(d)

**MP 29 Consolidated ICA amount applied to pay other taxes**

***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 5 (amount applied to pay other taxes) for an amount of overpaid income tax that is applied to satisfy an amount a group company owes under the Inland Revenue Acts. Subsection (2) overrides this subsection.

***No debit***

- (2) The debit referred to in subsection (1) does not include overpaid income tax to the extent to which it is—
- (a) applied to satisfy a liability for income tax; or
  - (b) for an amount paid before an imputation debit described in table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity) arises, not more than the debit for loss of shareholder continuity.

***Debit date***

- (3) The debit date is the day the amount is applied.

Defined in this Act: amount, company, consolidated imputation group, imputation debit, income tax, Inland Revenue Acts, pay, shareholder

Origin: 2004 No 35 s ME 12(1)(l), (2)(k)

**MP 30 Consolidated ICA refund from tax pooling account**

***When this section applies***

- (1) This section applies in a tax year when a consolidated imputation group pays an intermediary an amount that gives rise to an imputation credit described in table M19: imputation credits of consolidated imputation groups, row 3 (deposit in tax



pooling account) or row 4 (transfer from tax pooling account), and the amount is later refunded by the intermediary from the tax pooling account.

***Debit***

- (2) The group has an imputation debit for the tax year as described in table M20: imputation debits of consolidated imputation groups, row 6 (refund from tax pooling account) for the amount of the refund.

***Debit date***

- (3) The debit date for the debit is—
- (a) the last day of the previous tax year to the extent of the amount of the debit that is not more than the credit balance in the imputation credit account on that date:
  - (b) the day the refund is made to the extent of the remaining amount of the debit that is not more than the credit balance in the imputation credit account on the day of refund:
  - (c) the last day of the previous tax year for the remainder of the imputation debit.

Defined in this Act: amount, consolidated imputation group, deposit, imputation credit, imputation credit account, imputation debit, intermediary, pay, tax year

Origin: 2004 No 35 s ME 12(1)(da), (2)(da)

**MP 31 Consolidated ICA transfer to tax pooling account**

***When this section applies***

- (1) This section applies in a tax year when a consolidated imputation group transfers to another person an entitlement to funds in a tax pooling account that gives rise to an imputation credit described in table M19: imputation credits of consolidated imputation groups, row 3 (deposit in tax pooling account) or row 4 (transfer from tax pooling account).

***Debit***

- (2) The group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 7 (transfer to tax pooling account) for the amount of the a transfer.

***Debit date***

- (3) The debit date for the debit is—
- (a) the last day of the previous tax year to the extent of the amount of the debit that is not more than the credit balance in the imputation credit account on that date:

- (b) the day the refund is made to the extent of the remaining amount of the debit that is not more than the credit balance in the imputation credit account on the day of refund:
- (c) the last day of the previous tax year for the remainder of the imputation debit.

Defined in this Act: amount, consolidated imputation group, imputation credit, imputation credit account, imputation debit, tax year

Origin: 2004 No 35 s ME 12(1)(db), (2)(da)

### **MP 32 Consolidated ICA refund of FDWP**

#### ***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 8 (refund of FDWP) for the amount of a refund of FDWP that relates to a dividend derived by a group company at a time when—
  - (a) the group company is part of a consolidated group without an FDWP account; or
  - (b) the group company does not have an FDWP account and is not part of a consolidated group.

#### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, company, consolidated group, consolidated imputation group, FDWP, FDWP account, imputation debit

Origin: 2004 No 35 s ME 12(1)(f), (2)(d)

### **MP 33 Consolidated ICA refund of tax credit**

#### ***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 9 (refund of tax credit) for the amount of a refund under section LD 8(1)(c) (Credit of tax for dividend withholding payment credit in hands of shareholder) that relates to a dividend derived by a group company at a time when—
  - (a) the group company is part of a consolidated group without an FDWP account; or

- (b) the group company does not have an FDWP account and is not part of a consolidated group.

***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, company, consolidated group, consolidated imputation group, dividend, FDWP account, imputation debit

Origin: 2004 No 35 s ME 12(1)(f), (2)(d)

**MP 34 Consolidated ICA overpayment of FDWP**

***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 10 (overpayment of FDWP) for the amount of an overpayment of FDWP relating to a dividend derived by a group company in the following circumstances:
  - (a) the dividend is derived by the company at a time when—
    - (i) the company is part of a consolidated group without an FDWP account; or
    - (ii) the company does not have an FDWP account and is not part of a consolidated group; and
  - (b) the overpayment is applied to satisfy a liability owed by a group company under the Inland Revenue Acts other than a liability for income tax or FDWP; and
  - (c) the group does not have an FDWP account when the amount is applied.

***Debit date***

- (2) The debit date is the day the amount is applied.

Defined in this Act: amount, company, consolidated group, consolidated imputation group, dividend, FDWP, FDWP account, imputation debit, income tax, Inland Revenue Act, pay

Origin: 2004 No 35 s ME 12(1)(m), (2)(k)

**MP 35 Consolidated ICA group company's debit**

***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 11 (group company's

debit) for an amount to the extent to which the amount would, if subsection (2) did not exist, give rise to—

- (a) an imputation debit described in a row of table M2: imputation debits, in the imputation credit account of a group company; and
- (b) an imputation debit that would create or increase a debit balance in the group company's imputation credit account.

***No debit for group company***

- (2) The amount referred to in subsection (1) does not give rise to an imputation debit in the group company's account although otherwise eligible to be one.

***Debit date***

- (3) The debit date is the day that the amount would have been debited to the imputation credit account of the group company if subsection (2) did not exist.

Defined in this Act: amount, company, consolidated imputation group, imputation credit account, imputation debit

Origin: 2004 No 35 s ME 12(1)(k), (2)(j)

**MP 36 Consolidated ICA transfer for net foreign attributed income**

***Election***

- (1) A consolidated imputation group may choose to transfer an amount that relates to net foreign attributed income from the group's imputation credit account to the FDWP account of—
  - (a) a group company that is not also part of a consolidated group; or
  - (b) a consolidated group with the same membership as the consolidated imputation group.

***Debit and credit***

- (2) The amount transferred is—
  - (a) an imputation debit described in table M20: imputation debits of consolidated imputation groups, row 12 (transfer for net foreign attributed income) in the group's imputation credit account; and
  - (b) an FDWP credit described in table M21: FDWP credits of consolidated FDWP groups, row 7 (transfer for net foreign attributed income) in the FDWP account of the group company or consolidated group, as appropriate.

***Two methods***

- (3) The amount transferred must be calculated for an income year under method 1 or method 2 as described in this section.

***When methods apply***

- (4) The group must apply—
- (a) method 1 set out in subsection (5) if the group or a company that is not the group company referred to in subsection (1)(a) maintains an FDWP account and a conduit tax relief account for all of the tax year; or
  - (b) method 2 set out in subsection (6) if the group or a company that is not the group company referred to in subsection (1)(a) maintains only an FDWP account for all of the tax year.

***Method 1***

- (5) Under method 1, the group or company must apply sections KH 1 and KH 2 (which relate to credits for conduit tax relief) as if—
- (a) the amount transferred were conduit tax relief for the tax year corresponding to the income year; and
  - (b) the percentage of resident shareholders were substituted for the item **NRS** in section KH 1(2) and (3); and
  - (c) the percentage of resident shareholders were calculated by deducting the item **NRS** from 100%.

***Method 2***

- (6) Under method 2, the group or company must make the calculation under section KH 1 as if the group or company were a conduit tax relief company and the item **NRS** were 100%.

***No transfer***

- (7) Despite subsection (3), if neither method can be applied, no transfer arises under this section.

***Debit date***

- (8) The debit date for the debit is—
- (a) the last day of the tax year corresponding to the income year referred to in subsection (3) for so much of the amount transferred that is no more than the amount of provisional tax paid before that date for the income year; or
  - (b) the day on which the company files the return of income for the tax year corresponding to the income year referred to in subsection (3) for the balance of the transfer.

Defined in this Act: amount, company, conduit tax relief account, conduit tax relief company, consolidated group, consolidated imputation group, FDWP account, FDWP credit, foreign attributed income, imputation credit account, imputation debit, income year, provisional tax, resident, return of income, shareholder, tax year

### **MP 37 Consolidated ICA debit for loss of shareholder continuity**

#### ***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity) for the amount of an imputation credit retained in the group's imputation credit account and unused before the date of breach in shareholder continuity.

#### ***Debit date***

- (2) The debit date is the day of loss of shareholder continuity.

Defined in this Act: amount, consolidated imputation group, imputation credit, imputation credit account, imputation debit, shareholder

Origin: 2004 No 35 ss ME 12(1)(h), (2)(g), ME 13(2)

### **MP 38 Consolidated ICA breach of imputation ratio**

#### ***Debit***

- (1) A consolidated imputation group has an imputation debit for a tax year as described in table M20: imputation debits of consolidated imputation groups, row 14 (breach of imputation ratio) for the amount of a debit described in table M2: imputation debits, row 16 (breach of imputation ratio) that would arise in the imputation credit account of a group company, if section MP 5(3) did not exist.

#### ***Debit date***

- (2) The debit date is the last day of the tax year.

Defined in this Act: amount, company, consolidated imputation group, imputation credit account, imputation debit, imputation ratio, tax year

Origin: 2004 No 35 s ME 12(1)(e), (2)(e)

### **MP 39 Consolidated ICA transfer to policyholder credit account**

#### ***Election***

- (1) The nominated company of a consolidated imputation group may choose to transfer some or all of a credit balance in the group's imputation credit account to the policyholder credit account of a group company. Subsection (2) overrides this subsection.

***Restriction***

- (2) Subsection (1) does not apply to a consolidation imputation group that is also a resident imputation subgroup.

***Method of election***

- (3) The company makes the election by recording the credit balance transferred as—
- (a) a debit in the group's imputation credit account; and
  - (b) a credit in the group's policyholder credit account.

***Result of election***

- (4) When the election is made,—
- (a) a debit arises as described in table M20: imputation debits of consolidated imputation groups, row 15 (transfer to policyholder credit account); and
  - (b) a credit arises as described in table M27: policyholder credits of consolidated groups, row 2 (transfer from imputation credit account).

***Debit date***

- (5) The debit date is the day the election is made.

Defined in this Act: company, consolidated group, consolidated imputation group, imputation credit account, imputation debit, nominated company, policyholder credit, policyholder credit account, resident imputation subgroup

Origin: 2004 No 35 ss ME 12(1)(b), (2)(b), ME 14(1)

**MP 40 Consolidated ICA redemption debit**

***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 16 (redemption debit) for the amount of a redemption debit.

***When redemption debit arises***

- (2) A redemption debit arises when—
- (a) a group company that is not an Australian ICA company is—
    - (i) the manager of a unit trust; or
    - (ii) the trustee or manager of a group investment fund; and
  - (b) the group company derives a dividend from the redemption or cancellation of—
    - (i) a unit issued by the unit trust; or
    - (ii) an interest of an investor in the group investment fund; and

- (c) the company has acquired the unit or interest in the ordinary course of its management activities; and
- (d) the unit or interest had been offered to investors upon terms contemplating repurchase and redemption or cancellation by the group company.

***Calculating amount***

- (3) The debit is for the greater of the amounts described in subsections (4) and (6) calculated for the income year referred to in subsection (8) in which the group company derives the dividend referred to in subsection (2)(b).

***First amount***

- (4) The first amount is calculated using the formula—

$$\text{total credits} - \text{imputation debits.}$$

***Definition of items in formula***

- (5) In the formula in subsection (4),—
  - (a) **total credits** is the total amount of all imputation credits and FDWP credits attached to dividends derived by the group company in the income year in the circumstances described in subsection (2):
  - (b) **imputation debits** is the amount of imputation debits in the income year as described in table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity) in the group's imputation credit account account.

***Second amount***

- (6) The second amount is calculated using the formula—

$$\frac{\text{total dividends}}{\text{group company's taxable income}} \times (\text{group company's tax liability} - \text{continuity debits}).$$

***Definition of items in formula***

- (7) In the formula in subsection (6),—
  - (a) **total dividends** is the total amount of all dividends derived in the circumstances described in subsection (2), including imputation credits and FDWP credits attached to the dividends:
  - (b) **group company's taxable income** is the taxable income of the group company for the tax year corresponding to the income year in which the dividends are derived:
  - (c) **group company's tax liability** is the group company's income tax liability for the tax year corresponding to the income year in which the dividends are derived:
  - (d) **continuity debits** is the amount of imputation credits attached to the dividends that have been cancelled by an imputation debit described in table



M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity).

***Debit date***

- (8) The debit date is the day the company or the group's nominated company files the return of income for the tax year corresponding to the income year in which the dividend is derived.

Defined in this Act: amount, Australian ICA company, company, consolidated imputation group, dividend, FDWP credit, group investment fund, imputation credit, imputation credit account, imputation debit, income tax liability, income year, investor, return of income, shareholder, tax year, taxable income, trustee, unit trust

Origin: 2004 No 35 s ME 41

**MP 41 Consolidated ICA tax advantage arrangement**

***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 17 (tax advantage arrangement) for the amount of a debit for a tax advantage arrangement determined under section GC 22 (Imputation: arrangement to obtain tax advantage).

***Debit date***

- (2) The debit date is the last day of the tax year in which the arrangement began.

Defined in this Act: amount, arrangement, consolidated imputation group, imputation debit, tax advantage, tax year

Origin: 2004 No 35 s ME 12(1)(i), (2)(h)

**MP 42 Consolidated ICA final balance**

***Debit***

- (1) A consolidated imputation group has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 18 (final balance) for a credit balance in the imputation credit account when the group stops being a consolidated imputation group.

***Debit date***

- (2) The debit date is the day just before the group stops being a consolidated imputation group.

Defined in this Act: consolidated imputation group, imputation credit account, imputation debit

Origin: 2004 No 35 s ME 12(1)(j), (2)(h)

#### **MP 43 Consolidated ICA refund of non-resident withholding tax**

##### ***Debit***

- (1) A consolidated imputation group that includes an Australian ICA company has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 19 (refund of non-resident withholding tax) for the amount of a refund of non-resident withholding tax that gave rise to an imputation credit described in table M19: imputation credits of consolidated imputation groups, row 18 (deduction of non-resident withholding tax).

##### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, imputation debit, non-resident withholding tax

Origin: 2004 No 35 s ME 12(1A)(a), (2A)

#### **MP 44 Consolidated ICA refund of withholding payment**

##### ***Debit***

- (1) A consolidated imputation group that includes an Australian ICA company has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 20 (refund of withholding payment) for the amount of a refund of withholding payment that gave rise to an imputation credit described in table M19: imputation credits of consolidated imputation groups, row 19 (deduction from withholding payment).

##### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, imputation debit, withholding payment

Origin: 2004 No 35 s ME 12(1A)(b), (2A)

#### **MP 45 Consolidated ICA refund of schedular income tax**

##### ***Debit***

- (1) A consolidated imputation group that includes an Australian ICA company has an imputation debit as described in table M20: imputation debits of consolidated imputation groups, row 21 (refund of schedular income tax) for the amount of a refund of a payment of schedular income tax that gave rise to an imputation credit described in table M19: imputation credits of consolidated imputation groups, row 20 (payment of schedular income tax).

##### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, consolidated imputation group, imputation credit, imputation debit, income tax, pay, schedular income tax

Origin: 2004 No 35 s ME 12(1A)(c), (2A)

### ***Consolidated groups and FDWP accounts***

#### ***Introductory provisions***

#### **MP 46 FDWP accounts of consolidated FDWP groups**

##### ***Consolidated group account***

- (1) A consolidated group is a foreign dividend withholding payment group (**consolidated FDWP group**) for a tax year if—
  - (a) a group company is an FDWP company at a time during the tax year; or
  - (b) the group chooses to maintain an FDWP account.

##### ***Effect of election***

- (2) If a consolidated FDWP group makes an election under subsection (1)(b), it must maintain the FDWP account referred to in section MC 2 (FDWP accounts) from the date of election.

##### ***Notifying Commissioner***

- (3) The nominated company of a consolidated FDWP group must notify the Commissioner of an election under subsection (1)(b)—
  - (a) no later than 21 days after the day of election; or
  - (b) by a later time if the Commissioner allows.

Defined in this Act: Commissioner, consolidated FDWP group, consolidated group, FDWP account, FDWP company, FDWP credit, nominated company, notify, tax year

Origin: 2004 No 35 s MG 13(1)

#### **MP 47 Choosing to stop being consolidated FDWP group**

##### *Election*

- (1) The nominated company of a consolidated FDWP group may choose that the group's status as a consolidated FDWP group is to end.

##### *When election made*

- (2) The election referred to in subsection (1) may be made during a tax year that is later than the tax year in which the group chooses under section MP 46 to become a consolidated FDWP group.

##### *When company's status ends*

- (3) The election referred to in subsection (1) takes effect from the start of the later tax year referred to in subsection (2), but only if,—
  - (a) before the election, the group—
    - (i) files an annual FDWP return for the year of election in the time allowed by section 71 of the Tax Administration Act 1994; and
    - (ii) pays further FDWP under section MC 27 (Payment of further FDWP for closing credit balance) for the year of election; and
  - (b) no group company is an FDWP company in the tax year after the year of election.

Defined in this Act: company, consolidated FDWP group, FDWP, FDWP account, FDWP company, further FDWP, nominated company, tax year

Origin: 2004 No 35 s MG 2(4), (5)

#### **MP 48 When credits and debits arise only in consolidated FDWP group accounts**

##### *Credits to group accounts*

- (1) A credit listed in subsection (2) arises only in the FDWP account of a consolidated FDWP group and not in the FDWP account of a group company.

##### *Particular credits*

- (2) The credit referred to in subsection (1) is a credit described in the following rows of table M21: FDWP credits of consolidated FDWP groups:
  - (a) row 2 (payment of FDWP):

- (b) row 4 (derivation of dividend with FDWP credit).

***Debits only in group accounts***

- (3) A debit listed in subsection (4) arises only in the FDWP account of a consolidated FDWP group and not in the FDWP account of a group company.

***Particular debits***

- (4) The debit referred to in subsection (3) is a debit described in the following rows of table M22: FDWP debits of consolidated FDWP groups:
  - (a) row 2 (payment of dividend):
  - (b) row 3 (refund of FDWP):
  - (c) row 5 (refund of tax credit):
  - (d) row 9 (breach of FDWP ratio).

Defined in this Act: company, consolidated FDWP group, dividend, FDWP, FDWP account, FDWP credit, FDWP ratio, pay

Origin: 2004 No 35 s MG 16(1)

**MP 49 Provisions applying to consolidated FDWP groups**

***Single company, tax liabilities***

- (1) The provisions set out in subsection (2) apply, modified as necessary, to a consolidated FDWP group and to the FDWP account of the group as if—
  - (a) the group were a single company; and
  - (b) a reference to a section of this Act were to an equivalent provision applicable to a consolidated group; and
  - (c) a reference to a company's liability for further FDWP, late payment penalty, or FDWP penalty tax were a reference to a joint and several liability owed by group companies when the tax or penalty becomes payable.

***Other provisions***

- (2) The provisions are—
  - (a) sections MC 27 and MC 28 (which relate to further FDWP); and
  - (b) sections 103, 104, 139B, 140C, 140D, and 181 of the Tax Administration Act 1994.

***Consolidation provisions***

- (3) Section HB 1(2) to (5) (Returns, assessments, and liability of consolidated group) overrides subsection (1)(c).

Defined in this Act: company, consolidated FDWP group, consolidated group, FDWP account, FDWP penalty tax, further FDWP, pay

Origin: 2004 No 35 s MG 16A(2)

*FDWP credits of consolidated FDWP groups*

**Table M21: FDWP credits of consolidated FDWP groups**

Row	FDWP credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Payment of FDWP</i>		
	FDWP paid by a group company	day of payment	section MP 50
3	<i>Payment of further FDWP</i>		
	Further FDWP paid	day of payment	section MP 51
4	<i>Derivation of dividend with FDWP credit</i>		
	An FDWP credit attached to a dividend derived	day the dividend is paid	section MP 52
5	<i>Group company's credit</i>		
	A credit of a group company	set out in section MP 53	section MP 53
6	<i>Transfer from group's conduit tax relief account</i>		
	A transfer of a closing credit balance from a group's conduit tax relief account	31 March	section MP 54
7	<i>Transfer for net foreign attributed income</i>		
	A transfer from a group's imputation credit account for net foreign attributed income	debit date in the imputation credit account	section MP 55
8	<i>Reversal of tax advantage arrangement</i>		
	The reversal of the debit for a tax advantage arrangement	debit date for the debit	section MP 56

**How to use this table**

Each row in the table describes—

- (a) the FDWP credits that may arise in the FDWP account of a consolidated FDWP group during a tax year; and
- (b) the credit date when the credit arises.

A more detailed description of the FDWP credits and, as necessary, credit dates is contained in the section noted in the last column.

### **MP 50 Consolidated FDWPA payment of FDWP**

#### ***Credit***

- (1) A consolidated FDWP group has an FDWP credit as described in table M21: FDWP credits of consolidated FDWP groups, row 2 (payment of FDWP) for a payment of FDWP by a group company. Subsection (2) overrides this subsection.

#### ***No credit***

- (2) A consolidated FDWP group does not have an FDWP credit for an amount of FDWP paid—
- (a) by crediting an amount of further FDWP under sections MC 31 (Further FDWP paid satisfying liability for FDWP) and MP 49; or
  - (b) by reducing a net loss under section NH 5(4) (Dividend withholding payments and consolidated groups).

#### ***Credit date***

- (3) The credit date is the day the FDWP is paid.

Defined in this Act: amount, company, consolidated FDWP group, FDWP, FDWP credit, further FDWP, net loss, pay

Origin: 2004 No 35 s MG 14(1)(a), (2)(a)

### **MP 51 Consolidated FDWPA payment of further FDWP**

#### ***Credit***

- (1) A consolidated FDWP group has an FDWP credit as described in table M21: FDWP credits of consolidated FDWP groups, row 3 (payment of further FDWP) for a payment of further FDWP under section MC 27 or MC 28 (which relate to further FDWP).

#### ***Credit date***

- (2) The credit date is the day the further FDWP is paid.

Defined in this Act: consolidated FDWP group, FDWP credit, further FDWP, pay

Origin: 2004 No 35 s MG 14(1)(c), (2)(a)

### **MP 52 Consolidated FDWPA derivation of dividend with FDWP credit**

#### ***Credit***

- (1) A consolidated FDWP group has an FDWP credit as described in table M21: FDWP credits of consolidated FDWP groups, row 4 (derivation of dividend with FDWP

credit) for the amount of an FDWP credit attached to a dividend derived by a group company.

***Credit date***

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, company, consolidated FDWP group, dividend, FDWP credit

Origin: 2004 No 35 s MG 14(1)(b), (2)(a)

**MP 53 Consolidated FDWPA group company's credit**

***Credit***

- (1) A consolidated FDWP group has an FDWP credit as described in table M21: FDWP credits of consolidated FDWP groups, row 5 (group company's credits) for the amount of a credit arising as follows:
- (a) an FDWP credit described in a row of table M3: FDWP credits, arises in the FDWP account of a group company; and
  - (b) an FDWP debit described in a row of table M22: FDWP debits of consolidated FDWP groups arises in the group FDWP account; and
  - (c) the debit is not offset by a credit arising in the group account before the credit arose in the group company's account.

***Offsetting debits***

- (2) For the purposes of subsection (1)(c), to determine whether the debit has been offset by a credit in the group account,—
- (a) credits are treated as reducing debits in the order in which the credits arise; and
  - (b) a credit, whether some or all, is counted only once in determining whether a debit has been offset; and
  - (c) credits in the accounts of more than 1 group company become a credit to the group account—
    - (i) in the order of their credit date; and
    - (ii) as chosen by the group, if credits arise on the same credit date; and
    - (iii) on a pro rata basis, if no election under subparagraph (ii).

***Credit date***

- (3) The credit date is just before the debit date for the debit to the group account.

Defined in this Act: amount, company, consolidated FDWP group, FDWP account, FDWP credit, FDWP debit

Origin: 2004 No 35 ss MG 14(1)(e), (2)(c), MG 16(2), (4)



#### **MP 54 Consolidated FDWPA transfer from group's conduit tax relief account**

*Credit*

- (1) A consolidated FDWP group has an FDWP credit for a tax year as described in table M21: FDWP credits of consolidated FDWP groups, row 6 (transfers from group's conduit tax relief account) for an amount equal to the amount of a conduit tax relief debit described in table M24: conduit tax relief debits of consolidated groups, row 3 (transfer to group's FDWP account) for the transfer of a closing credit balance to the FDWP account.

*Credit date*

- (2) The credit date is the last day of the tax year.

Defined in this Act: amount, conduit tax relief account, conduit tax relief debit, consolidated FDWP group, FDWP account, FDWP credit, tax year

Origin: 2004 No 35 s MI 20(2)

#### **MP 55 Consolidated FDWPA transfer for net foreign attributed income**

*Credit*

- (1) A consolidated FDWP group has an FDWP credit as described in table M21: FDWP credits of consolidated FDWP groups, row 7 (transfer for net foreign attributed income) for an amount equal to the amount of an imputation debit described in table M20: imputation debits of consolidated imputation groups, row 12 (transfer for net foreign attributed income) for a transfer to the FDWP account on account of net foreign attributed income.

*Credit date*

- (2) The credit date is the same as the debit date in the imputation credit account.

Defined in this Act: amount, consolidated FDWP group, consolidated imputation group, FDWP account, FDWP credit, foreign attributed income, imputation credit account, imputation debit

Origin: 2004 No 35 s MG 14(1)(f), (2)(d)

#### **MP 56 Consolidated FDWPA reversal of tax advantage arrangement**

*Credit*

- (1) A consolidated FDWP group has an FDWP credit as described in table M21: FDWP credits of consolidated FDWP groups, row 8 (reversal of tax advantage arrangement) for an amount equal to a debit in the group's FDWP account described

in table M22: FDWP debits of consolidated FDWP groups, row 13 (tax advantage arrangement).

***Credit date***

- (2) The credit date is the same as the debit date of the debit.

Defined in this Act: amount, arrangement, consolidated FDWP group, FDWP account, FDWP credit, tax advantage

Origin: 2004 No 35 s MG 14(1)(d), (2)(b)

*FDWP debits of consolidated FDWP groups*

**Table M22: FDWP debits of consolidated FDWP groups**

Row	FDWP debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of dividend</i>		
	An FDWP credit attached to dividend paid by a group company	day the dividend is paid	section MP 57
3	<i>Refund of FDWP</i>		
	A refund of FDWP	day of refund	section MP 58
4	<i>Overpayment of FDWP</i>		
	Overpaid FDWP applied to satisfy an amount other than FDWP owing under an Inland Revenue Act	day of application	section MP 59
5	<i>Refund of tax credit</i>		
	A refund of a tax credit	day of refund	section MP 60
6	<i>Transfer to imputation credit account</i>		
	A transfer of a year-end credit balance to an imputation credit account	31 March	section MP 61

7	<i>Transfer to group's conduit tax relief account</i>		
	A transfer of a year-end credit balance to a group's conduit tax relief account	31 March	section MP 62
8	<i>Group company's debit</i>		
	A debit that would increase a debit balance for a group company	set out in section MP 63	section MP 63
9	<i>Breach of FDWP ratio</i>		
	A debit for breach of FDWP ratio	31 March	section MP 64
10	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity	day of loss of continuity	section MP 65
11	<i>Transfer to policyholder credit account</i>		
	A transfer of a credit balance to a group's policyholder credit account	day of election	section MP 66
12	<i>Breach of FDWP ratio by PCA company</i>		
	A breach of FDWP ratio by a group company that is a PCA company	31 March	section MP 67
13	<i>Tax advantage arrangement</i>		
	A debit for a tax advantage arrangement	last day of the tax year in which the arrangement began	section MP 68
14	<i>Final balance</i>		
	A credit balance when a group stops being a consolidated FDWP group	day the group stops being a consolidated FDWP group	section MP 69
<p><b>How to use this table</b></p> <p>Each row in the table describes—</p> <p>(a) the FDWP debits that may arise in the FDWP account of a consolidated FDWP group during a tax year; and</p> <p>(b) the debit date when the debit arises.</p> <p>A more detailed description of the FDWP debits and, as necessary, debit dates is contained in the section noted in the last column.</p>			

### MP 57 Consolidated FDWPA payment of dividend

#### *Debit*

- (1) A consolidated FDWP group has an FDWP debit as described in table M22: FDWP debits of consolidated FDWP groups, row 2 (payment of dividend) for the amount of an FDWP credit attached to a dividend paid by a group company that is part of the group when the dividend is paid.

***Debit date***

- (2) The debit date is the day the dividend is paid.

Defined in this Act: amount, company, consolidated FDWP group, dividend, FDWP account, FDWP credit, FDWP debit, pay

Origin: 2004 No 35 s MG 15(1)(a)

**MP 58 Consolidated FDWPA refund of FDWP**

***Debit***

- (1) A consolidated FDWP group has an FDWP debit as described in table M22: FDWP debits of consolidated FDWP groups, row 3 (refund of FDWP) for a refund of FDWP paid to a group company that is part of the group when it derived the dividend giving rise to the payment of FDWP and the refund. Subsection (2) overrides this subsection.

***No debit***

- (2) A debit under subsection (1) does not arise if—
- (a) the payment of FDWP giving rise to the refund was made before an FDWP debit described in table M22: FDWP debits of consolidated FDWP groups, row 10 (debit for loss of shareholder continuity) arises; and
  - (b) the debit for the refund is not more than the debit for loss of shareholder continuity.

***Debit date***

- (3) The debit date is the day the refund is made.

Defined in this Act: company, consolidated FDWP group, dividend, FDWP, FDWP debit, pay, shareholder

Origin: 2004 No 35 s MG 15(1)(d), (2)(d)

**MP 59 Consolidated FDWPA overpayment of FDWP**

***Debit***

- (1) A consolidated FDWP group has an FDWP debit as described in table M22: FDWP debits of consolidated FDWP groups, row 4 (overpayment of FDWP) for an overpayment of FDWP that is—
- (a) paid by a group company that is part of the group at the time it derived the dividend giving rise to the overpayment of FDWP; and
  - (b) applied to satisfy an amount owing under the Inland Revenue Acts.

***No debit***

- (2) Despite subsection (1), the debit does not include an overpayment of FDWP to the extent to which it is—
- (a) applied to satisfy a liability for FDWP; or
  - (b) for a payment of FDWP before an FDWP debit arises as described in table M22: FDWP debits of consolidated FDWP groups, row 10 (debit for loss of shareholder continuity), not more than the debit for loss of shareholder continuity.

***Debit date***

- (3) The debit date is the day the amount is applied.

Defined in this Act: amount, company, consolidated FDWP group, dividend, FDWP, FDWP account, FDWP debit, Inland Revenue Acts, pay, shareholder

Origin: 2004 No 35 s MG 15(1)(1), (2)(j)

**MP 60 Consolidated FDWPA refund of tax credit**

***Debit***

- (1) A consolidated FDWP group has an FDWP debit as described in table M22: FDWP debits of consolidated FDWP groups, row 5 (refund of tax credit) for a refund of a credit of tax under section LD 8(1)(c) (Credit of tax for dividend withholding payment credit in hands of shareholder) relating to a dividend derived by a group company that is part of the group at the time it derived the dividend.

***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: company, consolidated FDWP group, dividend, FDWP account

Origin: 2004 No 35 s MG 1(1)(e), (2)(d)

**MP 61 Consolidated FDWPA transfer to imputation credit account**

***Debit***

- (1) A consolidated FDWP group has an FDWP debit for a tax year as described in table M22: FDWP debits of consolidated FDWP groups, row 6 (transfer to imputation credit account) for an amount equal to a closing credit balance transferred under section NH 6(6) (Application of specific dividend withholding payment provisions to consolidated groups) to the group's imputation credit account.

***Debit date***

- (2) The debit date is the last day of the tax year.

Defined in this Act: amount, consolidated FDWP group, FDWP account, FDWP debit, imputation credit account, tax year

Origin: 2004 No 35 s MG 15(1)(c), (2)(c)

**MP 62 Consolidated FDWPA transfer to group's conduit tax relief account**

***Debit***

- (1) A consolidated FDWP group has an FDWP debit for a tax year as described in table M22: FDWP debits of consolidated FDWP groups, row 7 (transfer to group's conduit tax relief account) for an amount equal to a conduit tax relief credit described in table M23: conduit tax relief credits of consolidated groups, row 6 (transfer from group's FDWP account) for the transfer of a credit balance to the group's conduit tax relief account.

***Debit date***

- (2) The debit date is the last day of the tax year.

Defined in this Act: amount, conduit tax relief account, conduit tax relief credit, consolidated FDWP group, FDWP account, FDWP debit, tax year

Origin: 2004 No 35 s MI 20(1)

**MP 63 Consolidated FDWPA group company's debit**

***Debit***

- (1) A consolidated FDWP group has an FDWP debit as described in table M22: FDWP debits of consolidated FDWP groups, row 8 (group company's debit) for an amount to the extent to which it would, if subsection (2) did not exist, give rise to—
- (a) an FDWP debit described in a row of table M4: FDWP debits, in the FDWP account of a group company; and
  - (b) an FDWP debit that would create or increase a debit balance in the group company's FDWP account.

***No debit for group company***

- (2) The amount referred to in subsection (1) does not give rise to an FDWP debit in the group company's account although otherwise eligible to be one.

***Debit date***

- (3) The debit date is the day that would be the debit date for the amount if subsection (2) did not exist.

Defined in this Act: amount, company, consolidated FDWP group, FDWP account, FDWP debit

Origin: 2004 No 35 ss MG 15(1)(k), (2)(i), MG 16(5)

**MP 64 Consolidated FDWPA breach of FDWP ratio**

***Debit***

- (1) A consolidated FDWP group has an FDWP debit for a tax year as described in table M22: FDWP debits of consolidated FDWP groups, row 9 (breach of FDWP ratio) for the amount of a debit described in table M4: FDWP debits, row 10 (breach of FDWP ratio) in the FDWP account of a group company, if section MP 48(3) did not exist.

***Debit date***

- (2) The debit date is the last day of the tax year.

Defined in this Act: amount, company, consolidated FDWP group, FDWP account, FDWP debit, FDWP ratio, tax year

Origin: 2004 No 35 s MG 15(1)(f), (2)(e)

**MP 65 Consolidated FDWPA debit for loss of shareholder continuity**

***Debit***

- (1) A consolidated FDWP group has an FDWP debit as described in table M22: FDWP debits of consolidated FDWP groups, row 10 (debit for loss of shareholder continuity) for the amount of an FDWP credit retained in the group's FDWP account and unused before the date of breach in shareholder continuity.

***Debit date***

- (2) The debit date is the day of loss of shareholder continuity.

Defined in this Act: amount, consolidated FDWP group, FDWP account, FDWP credit, FDWP debit, shareholder

Origin: 2004 No 35 s MG 15(1)(i), (2)(g)

### **MP 66 Consolidated FDWPA transfer to policyholder credit account**

#### ***Debit***

- (1) A consolidated FDWP group has an FDWP debit as described in table M22: FDWP debits of consolidated FDWP groups, row 11 (transfer to policyholder credit account) for the amount equal to a credit balance transferred under section NH 6(2) (Application of specific dividend withholding payment provisions to consolidated groups) to the group's policyholder credit account.

#### ***Debit date***

- (2) The debit date is the day of election under section NH 6(2).

Defined in this Act: amount, consolidated FDWP group, FDWP account, FDWP debit, policyholder credit account

Origin: 2004 No 35 s MG 15(1)(b), (2)(b)

### **MP 67 Consolidated FDWPA breach of FDWP ratio by PCA company**

#### ***Debit***

- (1) A consolidated FDWP group has an FDWP debit for a tax year as described in table M22: FDWP debits of consolidated FDWP groups, row 12 (breach of FDWP ratio by PCA company) for the amount of a debit that would arise as described in table M4: FDWP debits, row 11 (breach of FDWP ratio by PCA company) in the FDWP account of a group company, if section MP 48(4)(d) did not exist.

#### ***Debit date***

- (2) The debit date is the last day of the tax year.

Defined in this Act: amount, company, consolidated FDWP group, FDWP account, FDWP debit, FDWP ratio, PCA company, tax year

Origin: 2004 No 35 s MG 15(1)(g), (2)(e)

### **MP 68 Consolidated FDWPA tax advantage arrangement**

#### ***Debit***

- (1) A consolidated FDWP group has an FDWP debit as described in table M22: FDWP debits of consolidated FDWP groups, row 13 (tax advantage arrangement) for the amount of a debit for a tax advantage arrangement determined under section GC 22 (Imputation: arrangement to obtain tax advantage).

#### ***Debit date***

- (2) The debit date is the last day of the tax year in which the arrangement began.



Defined in this Act: amount, arrangement, consolidated FDWP group, FDWP account, FDWP debit, tax advantage, tax year

Origin: 2004 No 35 s MG 15(1)(h), (2)(f)

### **MP 69 Consolidated FDWPA final balance**

#### ***Debit***

- (1) A consolidated FDWP group has an FDWP debit as described in table M22: FDWP debits of consolidated FDWP groups, row 14 (final balance) for a credit balance in the FDWP account when the group stops being a consolidated FDWP group.

#### ***Debit date***

- (2) The debit date is the day the group stops being a consolidated FDWP group.

Defined in this Act: consolidated FDWP group, FDWP account, FDWP debit

Origin: 2004 No 35 s MG 15(1)(j), (2)(h)

## ***Consolidated groups and conduit tax relief credits***

### ***Introductory provisions***

### **MP 70 Conduit tax relief accounts of consolidated groups**

#### ***Consolidated group accounts***

- (1) A consolidated group has a group conduit tax relief account for a tax year if a group company is a conduit tax relief company at a time during the tax year.

#### ***Group company's status***

- (2) Every company that is part of a consolidated group with a conduit tax relief account is a conduit tax relief company, despite the absence of an election under section MD 1(1) (General rules for conduit tax relief companies) by a group company.

Defined in this Act: company, conduit tax relief account, conduit tax relief company, consolidated group, tax year

Origin: 2004 No 35 ss MI 14, MI 16

### **MP 71 When credits and debits arise only in conduit tax relief group accounts**

#### ***Credits only in the group accounts***

- (1) A credit listed in subsection (2) arises only in the conduit tax relief account of a consolidated group and not in the conduit tax relief account of a group company.

#### ***Particular credits***

- (2) The credit referred to in subsection (1) is a credit described in the following rows of table M5: conduit tax relief credits:
- (a) row 2 (rebate for conduit tax relief):
  - (b) row 4 (derivation of dividend with conduit tax relief credit):
  - (c) row 5 (reduction of FDWP).

#### ***Debits only in the group accounts***

- (3) A debit listed in subsection (4) arises only in the conduit tax relief account of a consolidated group and not in the conduit tax relief account of a group company.

#### ***Particular debits***

- (4) The debit referred to in subsection (3) is a debit described in following rows of table M6: conduit tax relief debits:
- (a) row 2 (payment of dividend):
  - (b) row 5 (adjustment for conduit tax relief):
  - (c) row 9 (breach of conduit tax relief ratio).

Defined in this Act: company, conduit tax relief, conduit tax relief account, conduit tax relief credit, conduit tax relief debit, conduit tax relief ratio, consolidated group, dividend, FDWP

Origin: 2004 No 35 s MI 19(1), (2)

### **MP 72 Provisions applying to consolidated groups with conduit tax relief accounts**

#### ***Single company, tax liabilities***

- (1) The provisions set out in subsection (2) apply, modified as necessary, to a consolidated group and to the conduit tax relief account of the group as if—
- (a) the group were a single company; and
  - (b) a reference to a section of this Act were to an equivalent provision applicable to a consolidated group; and
  - (c) a reference to a company's liability for further FDWP, late payment penalty, or FDWP penalty tax were a reference to a joint and several liability owed by group companies when the tax or penalty becomes payable.

***Other provisions***

- (2) The provisions are—
- (a) sections MD 22 and MD 23 which relate to credits attached to dividends and FDWP payable); and
  - (b) sections 103, 104, 139B, 140C, 140D, and 181 of the Tax Administration Act 1994.

***Consolidation provisions***

- (3) Section HB 1(2) to (5) (Returns, assessments, and liability of consolidated group) overrides subsection (1)(c).

Defined in this Act: company, conduit tax relief account, consolidated group, FDWP penalty tax, further FDWP

Origin: 2004 No 35 s MI 22(1)

***Conduit tax relief credits of consolidated groups***

**Table M23: conduit tax relief credits of consolidated groups**

Row	Conduit tax relief credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Rebate for conduit tax relief</i>		
	Income tax rebate for conduit tax relief	set out in section MP 73	section MP 73
3	<i>Reduction of FDWP</i>		
	A reduction of FDWP for a dividend derived	due date for payment of the FDWP	section MP 74
4	<i>Derivation of dividend with conduit tax relief credit</i>		
	A conduit tax relief credit attached to a dividend derived	day the dividend is paid	section MP 75

5	<i>Group company's credit</i>		
	A credit from a group company's conduit tax relief account	set out in section MP 76	section MP 76
6	<i>Transfer from group's FDWP account</i>		
	A transfer from a group's FDWP account	31 March	section MP 77
7	<i>Reversal of tax advantage arrangement</i>		
	The reversal of the debit for a tax advantage arrangement	debit date for the debit	section MP 78
<p><b>How to use this table</b></p> <p>Each row in the table describes—</p> <p>(a) the conduit tax relief credits that may arise in the conduit tax relief account of a consolidated group during a tax year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the conduit tax relief credits and, as necessary, credit dates is contained in the section noted in the last column.</p>			

### MP 73 Consolidated CTRA rebate for conduit tax relief

#### *Credit*

- (1) A consolidated group has a conduit tax relief credit for a tax year as described in table M23: conduit tax relief credits of consolidated groups, row 2 (rebate for conduit tax relief) for the amount of a rebate of income tax allowed to the group under section KH 1 (Conduit tax relief) for an income year corresponding to the tax year. The amount of the credit is calculated under subsection (2).

#### *Calculating amount of credit*

- (2) Having determined the amount of its rebate for a tax year, a consolidated group must apportion the amount to calculate the amount of the credit using the formula—

$$\frac{\text{FDWP last day credit}}{\text{total FDWP credit}} \times \text{amount of rebate}$$

#### *Definitions of items in formula*

- (3) In the formula,—
- (a) **FDWP last day credit** is the part of the amount of the FDWP credit arising in the group's FDWP account on the last day of the tax year under section MP 36(1) (Consolidated ICA transfer for net foreign attributed income) for which the credit date is described in subsection (8)(a) of that section:

- (b) **total FDWP credit** is the total amount transferred from the imputation credit account to the FDWP account described in table M21: FDWP credits of consolidated FDWP groups, row 7 (transfer for net foreign attributed income):
- (c) **amount of rebate** is the amount of the rebate allowed under section KH 1.

***Amount included in component of formula***

- (4) The formula in subsection (2) takes into account an FDWP credit described in table M21: FDWP credits of consolidated FDWP groups, row 7 (transfer for net foreign attributed income) in the group's FDWP account.

***Credit date***

- (5) The credit date is—
  - (a) the last day of the tax year corresponding with the income year for which the rebate is allowed for the amount of the credit calculated under subsection (2); and
  - (b) the day the company files its return of income for the tax year for the balance of the credit.

Defined in this Act: amount, conduit tax relief, conduit tax relief account, conduit tax relief credit, consolidated group, FDWP account, FDWP credit, foreign attributed income, income tax, income year, return of income, tax year

Origin: 2004 No 35 s MI 17(1)(a), (2)(a)

**MP 74 Consolidated CTRA reduction of FDWP**

***Credit***

- (1) A consolidated group has a conduit tax relief credit as described in table M23: conduit tax relief credits of consolidated groups, row 3 (reduction of FDWP) for the amount of a reduction of FDWP that is allowed to a group company under section NH 7 (Reduction in liability under conduit tax relief) for a dividend derived when the company is part of the group at the time the reduction occurred.

***Credit date***

- (2) The credit date is the due date for payment of FDWP under section NH 7.

Defined in this Act: amount, company, conduit tax relief account, conduit tax relief credit, consolidated group, dividend, FDWP

Origin: 2004 No 35 s MI 17(1)(b), (2)(b)

### **MP 75 Consolidated CTRA derivation of dividend with conduit tax relief credit**

#### ***Credit***

- (1) A consolidated group has a conduit tax relief credit as described in table M23: conduit tax relief credits of consolidated groups, row 4 (derivation of dividend with conduit tax relief credit) for the amount of a conduit tax relief credit attached to a dividend derived by a group company that is part of the group when the dividend is derived.

#### ***Credit date***

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, company, conduit tax relief credit, consolidated group, dividend, pay

Origin: 2004 No 35 s MI 17(1)(c), (2)(c)

### **MP 76 Consolidated CTRA group company's credit**

#### ***Credit***

- (1) A consolidated group has a conduit tax relief credit as described in table M23: conduit tax relief credits of consolidated groups, row 5 (group company's credit) for an amount of a credit that arises when—
  - (a) a conduit tax relief credit described in table M5: conduit tax relief credits, arises in the conduit tax relief account of a group company; and
  - (b) a conduit tax relief debit described in table M24: conduit tax relief debits of consolidated groups, arises in the conduit tax relief account of the group; and
  - (c) the debit is not offset by a credit arising in the group account before the credit arose in the group company's account; and
  - (d) the credit is not more than the debit.

#### ***Offsetting debits***

- (2) For the purposes of subsection (1)(c), to determine whether a debit has been offset by a credit in the group account,—
  - (a) a credit retains its separate character and is not treated as part of a credit under section MA 7 (Opening balances of memorandum accounts); and
  - (b) credits are treated as reducing debits in the order in which the credits arise; and
  - (c) a credit, whether some or all, is counted only once in determining whether the debit has been offset; and

- (d) credits in the accounts of more than 1 group company become a credit to the group account—
  - (i) in the order of their credit date; and
  - (ii) as chosen by the group, if the credits arise on the same credit date; and
  - (iii) on a pro rata basis, if no election is made under subparagraph (ii).

***Credit date***

- (3) The credit date is the day the credit is recorded as transferred to the group account.

Defined in this Act: amount, company, conduit tax relief account, conduit tax relief credit, conduit tax relief debit, consolidated group

Origin: 2004 No 35 ss MI 17(1)(e), (2)(e), MI 19(3), (4)

**MP 77 Consolidated CTRA transfer from group's FDWP account**

***Credit***

- (1) A consolidated group has a conduit tax relief credit for a tax year as described in table M23: conduit tax relief credits of consolidated groups, row 6 (transfer from group's FDWP account) for an amount of a credit balance in the group's FDWP account that is treated as transferred to the group's conduit tax relief account when—
  - (a) a credit balance exists in the group's FDWP account just before the end of the tax year; and
  - (b) a debit balance exists in the group's conduit tax relief account just before the end of the tax year.

***Finding balances***

- (2) For the purposes of subsection (1),—
  - (a) the debit balance in the conduit tax relief account is determined after a conduit tax relief credit arises at the end of the tax year as described in the following rows of table M23: conduit tax relief credits of consolidated groups—
    - (i) row 2 (rebate for conduit tax relief); and
    - (ii) row 5 (group company's credit); and
  - (b) the credit balance in the FDWP account is determined after an FDWP credit arises as described in table M21: FDWP credits of consolidated FDWP groups, row 7 (transfer for net foreign attributed income) before the end of the tax year.

***Amount of credit and debit***

- (3) The amount of the credit is equal to is the smaller of the 2 balances referred to in subsection (1), and becomes—
- (a) the conduit tax relief credit described in table M23: conduit tax relief credits of consolidated groups, row 6 (transfer from group's FDWP account); and
  - (b) the FDWP debit described in table M22: FDWP debits of consolidated groups, row 7 (transfer to group's conduit tax relief account).

***Credit date***

- (4) The credit date is the last day of the tax year.

Defined in this Act: amount, company, conduit tax relief account, conduit tax relief credit, consolidated group, FDWP account, FDWP debit, foreign attributed income, imputation debit, tax year

Origin: 2004 No 35 ss MI 17(1)(f), (2)(f), MI 20(1)

**MP 78 Consolidated CTRA reversal of tax advantage arrangement**

***Credit***

- (1) A consolidated group has a conduit tax relief credit as described in table M23: conduit tax relief credits of consolidated groups, row 7 (reversal of tax advantage arrangement) for an amount equal to a debit in the group's conduit tax relief account described in table M24: conduit tax relief debits of consolidated groups, row 8 (tax advantage arrangement).

***Credit date***

- (2) The credit date is the same as the debit date for the debit.

Defined in this Act: amount, arrangement, conduit tax relief account, conduit tax relief credit, consolidated group, tax advantage

Origin: 2004 No 35 s MI 17(1)(d), (2)(d)



*Conduit tax relief debits of consolidated groups*

**Table M24: conduit tax relief debits of consolidated groups**

Row	Conduit tax relief debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of dividend</i>		
	A conduit tax relief credit attached to a dividend paid by a group company	day the dividend is paid	section MP 79
3	<i>Transfer to group's FDWP account</i>		
	A transfer of a closing credit balance to a group's FDWP account	31 March	section MP 80
4	<i>Adjustment for conduit tax relief</i>		
	An adjustment for conduit tax relief	day the return of income with the adjustment is filed	section MP 81
5	<i>Group company's debit</i>		
	A debit that would increase a debit balance for a group company	the company's debit date	section MP 82
6	<i>Increase in resident shareholding</i>		
	An increase in resident shareholding by more than 34%	day of shareholding change	section MP 83
7	<i>Breach of conduit tax relief ratio</i>		
	A debit for a breach of conduit tax relief ratio	31 March	section MP 84
8	<i>Tax advantage arrangement</i>		
	A debit for a tax advantage arrangement	last day of the tax year in which the arrangement began	section MP 85
9	<i>Final balance</i>		
	A credit balance when a group is no longer required to maintain a conduit tax relief account	day the account stops	section MP 86

**How to use this table**

Each row in the table describes—

- (a) the conduit tax relief debits that may arise in the conduit tax relief account of a consolidated group during a tax year; and
- (b) the debit date when the debit arises.

A more detailed description of the conduit tax relief debits is contained in the section noted in the last column.

**MP 79 Consolidated CTRA payment of dividend**

***Debit***

- (1) A consolidated group has a conduit tax relief debit as described in table M24: conduit tax relief debits of consolidated groups, row 2 (payment of dividend) for the amount of a conduit tax relief credit attached to a dividend paid by a group company that is part of the group when the dividend is paid.

***Debit date***

- (2) The debit date is the day the dividend is paid.

Defined in this Act: amount, company, conduit tax relief account, conduit tax relief credit, conduit tax relief debit, consolidated group, dividend, pay

Origin: 2004 No 35 s MI 18(1)(a), (2)(a)

**MP 80 Consolidated CTRA transfer to group's FDWP account**

***Debit***

- (1) A consolidated group has a conduit tax relief debit for a tax year as described in table M24: conduit tax relief debits of consolidated groups, row 3 (transfer to the group's FDWP account) for the amount of a credit balance in the conduit tax relief account that is treated as transferred to the group's FDWP account when—
  - (a) a credit balance exists in the group's conduit tax relief account just before the end of the tax year; and
  - (b) a debit balance exists in the group's FDWP account just before the end of the tax year.

***Finding balances***

- (2) For the purposes of subsection (1),—
  - (a) the credit balance and the debit balance are determined before the transfer is made under this section; and

- (b) the credit balance in the conduit tax relief account is found after a conduit tax relief credit arises at the end of the tax year as described in table M23: conduit tax relief credits of consolidated groups—
  - (i) row 2 (rebate for conduit tax relief):
  - (ii) row 6 (transfer from group's FDWP account).

***Amount of credit and debit***

- (3) The amount of the credit is equal to the smaller of the 2 balances referred to in subsection (1), and becomes—
  - (a) the conduit tax relief debit described in table M24: conduit tax relief debits of consolidated groups, row 3 (transfer to group's FDWP account); and
  - (b) the FDWP credit described in table M21: FDWP credits of consolidated FDWP groups, row 6 (transfer from group's conduit tax relief account).

***Debit date***

- (4) The debit date is the last day of the tax year.

Defined in this Act: amount, conduit tax relief account, conduit tax relief credit, conduit tax relief debit, consolidated group, dividend, FDWP account, FDWP credit, tax year

Origin: 2004 No 35 ss MI 18(1)(g), (2)(g), MI 20(2)

**MP 81 Consolidated CTRA adjustment for conduit tax relief**

***Debit***

- (1) A consolidated group has a conduit tax relief debit for a tax year as described in table M24: conduit tax relief debits of consolidated groups, row 4 (adjustment for conduit tax relief) for the amount of an adjustment allowed under section FH 8(5) (Rules for applying surplus group excess interest allocation amount to increase income tax and dividend withholding payment) to a group company that is part of the group on the last day of the income year corresponding to the tax year for which the adjustment is allowed.

***Debit date***

- (2) The debit date is the day the company files a return of income for the tax year corresponding to the income year for which the adjustment is made.

Defined in this Act: amount, company, conduit tax relief, conduit tax relief account, conduit tax relief debit, consolidated group, income year, tax year

Origin: 2004 No 35 s MI 18(1)(b), (2)(b)

### **MP 82 Consolidated CTRA group company's debit**

#### ***Debit***

- (1) A consolidated group has a conduit tax relief debit as described in table M24: conduit tax relief debits of consolidated groups, row 5 (group company's debit) for an amount to the extent to which the amount would, if section MP 71(3) did not exist, give rise to—
  - (a) a conduit tax relief debit described in table M6: conduit tax relief debits, in the conduit tax relief account of a group company; and
  - (b) a conduit tax relief debit that would create or increase a debit balance in the group company's conduit tax relief account.

#### ***Debit date***

- (2) The debit date is the day that would be the debit date if the debit had arisen in the company's account.

Defined in this Act: amount, company, conduit tax relief account, conduit tax relief debit, consolidated group

Origin: 2004 No 35 s MI 19(5)

### **MP 83 Consolidated CTRA increase in resident shareholding**

#### ***Debit***

- (1) A consolidated group has a conduit tax relief debit as described in table M24: conduit tax relief debits of consolidated groups, row 6 (increase in resident shareholding) for the amount of a conduit tax relief credit in the group's conduit tax relief account if a breach in the resident shareholding requirements described in subsection (2) and section MA 8 (Shareholder continuity requirements for memorandum accounts) occurs.

#### ***Resident shareholding requirement***

- (2) For the purposes of subsection (1), the resident shareholding requirement means that—
  - (a) the credit continues to exist to the extent to which it is not reduced by a later conduit tax relief debit; and
  - (b) since the credit date for the credit, the percentage of the group's shareholders who are resident in New Zealand does not increase by 34% or more; and
  - (c) an amount that is the conduit tax relief debit under subsection (1) arises for the amount of the credit that still exists when paragraph (b) is breached.

***Supporting rules***

- (3) The following rules apply for the purposes of subsection (2):
- (a) the percentage of shareholders resident in New Zealand at any time is found by taking—
    - (i) the highest percentage of direct voting interests held in the group by residents; and
    - (ii) the highest percentage of direct market value interests held in the group, if a direct market value circumstance exists, by residents; and
    - (iii) if not all shares held by the group's shareholders are shares of the same class, the highest percentage of total dividends that would be derived by residents if the group were liquidated:
  - (b) a credit retains its separate character and is not treated as part of a credit described in section MA 7 (Opening balances of memorandum accounts) in a later tax year; and
  - (c) the amount by which a credit is reduced by an earlier or later debit is found by—
    - (i) treating debits as reducing credits in the order in which the credits arise; and
    - (ii) counting a debit, whether some or all, only once in the reduction of a credit; and
  - (d) the credit date for a credit described in table M23: conduit tax relief credits of consolidated groups, row 5 (group company's credits) is the credit date when the credit arose in the conduit tax relief account of the group company; and
  - (e) the debit still arises despite an arrangement affecting the company's shares that has a purpose or effect of defeating the intent and application of the resident shareholding requirements.

***Debit date***

- (4) The debit date is the day on which the shareholding threshold is first reached or passed.

Defined in this Act: amount, arrangement, company, conduit tax relief account, conduit tax relief credit, conduit tax relief debit, consolidated group, dividend, liquidation, market value circumstance, market value interest, resident, resident in New Zealand, shareholder, shares of the same class, tax year, voting interest

Origin: 2004 No 35 s MI 18(1)(e), (2)(e), (3), (4)

#### **MP 84 Consolidated CTRA breach of conduit tax relief ratio**

##### ***Debit***

- (1) A consolidated group has a conduit tax relief debit for a tax year as described in table M24: conduit tax relief debits of consolidated groups, row 7 (breach of conduit tax relief ratio) for the amount of a debit described in table M6: conduit tax relief debits, row 9 (breach of conduit tax relief ratio) in the conduit tax relief account of a group company, if section MP 71 did not exist.

##### ***Debit date***

- (2) The debit date is the last day of the tax year.

Defined in this Act: amount, company, conduit tax relief account, conduit tax relief debit, conduit tax relief ratio, consolidated group, tax year

Origin: 2004 No 35 s MI 18(1)(c), (2)(c)

#### **MP 85 Consolidated CTRA tax advantage arrangement**

##### ***Debit***

- (1) A consolidated group has a conduit tax relief debit as described in table M24: conduit tax relief debits of consolidated groups, row 8 (tax advantage arrangement) for the amount of a debit for a tax advantage arrangement determined under section GC 22 (Imputation: arrangement to obtain tax advantage).

##### ***Debit date***

- (2) The debit date is the last day of the tax year in which the arrangement began.

Defined in this Act: amount, arrangement, conduit tax relief account, conduit tax relief debit, consolidated group, tax advantage, tax year

Origin: 2004 No 35 s MI 18(1)(d), (2)(d)

#### **MP 86 Consolidated CTRA final balance**

##### ***Debit***

- (1) A consolidated group has a conduit tax relief debit as described in table M24: conduit tax relief debits of consolidated groups, row 9 (final balance) for a credit balance in the conduit tax relief account when the group is no longer required to maintain the account.

##### ***Debit date***

- (2) The debit date is the day just before the group is no longer required to maintain a conduit tax relief account.

Defined in this Act: conduit tax relief account, conduit tax relief debit, consolidated group

Origin: 2004 No 35 s MI 18(1)(f), (2)(f)

*Consolidated groups' FDWP payments and refunds*

**MP 87 FDWP payable for credits and debits in group's conduit tax relief account**

***Liability for FDWP***

- (1) A consolidated FDWP group is liable to pay FDWP for a tax year for the amount of—
  - (a) a conduit tax relief credit described in table M23: conduit tax relief credits of consolidated groups, row 6 (transfer from group's FDWP account) at the end of the tax year; and
  - (b) a conduit tax relief debit described in subsection (2) arising in the group's conduit tax relief account during the tax year.

***Particular debits***

- (2) The debit referred to in subsection (1)(b) is a debit described in the following rows of table M24: conduit tax relief debits of consolidated groups:
  - (a) row 6 (increase in resident shareholding):
  - (b) row 7 (breach of conduit tax relief ratio):
  - (c) row 8 (tax advantage arrangement):
  - (d) row 9 (final balance).

***No FDWP credit***

- (3) No FDWP credit arises for an amount of FDWP paid for a debit described in subsection (2)(a) to (c).

***Payment dates***

- (4) The due date for payment to the Commissioner of the FDWP is—
  - (a) 20th June following the end of the tax year for an FDWP liability arising under subsection (1)(a); or
  - (b) the 20th of the month following the end of the quarter in which the debit arises for an FDWP liability arising under subsection (1)(b).

*Application of other provisions*

- (5) When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—
- (a) apply as if they addressed further FDWP and not income tax; and
  - (b) apply, modified as necessary, to ensure their application to FDWP rather than income tax; and
  - (c) do not override the FDWP rules and section 103A of the Tax Administration Act 1994.

Defined in this Act: amount, arrangement, Commissioner, conduit tax relief account, conduit tax relief credit, conduit tax relief debit, conduit tax relief ratio, consolidated FDWP group, FDWP, FDWP account, FDWP credit, FDWP rules, further FDWP, income tax, pay, resident, shareholder, tax advantage, tax year

Origin: 2004 No 35 s MI 21

**MP 88 Refund on transfer from group's FDWP account**

*Refund*

- (1) A consolidated FDWP group is entitled to a refund for the amount described in table M23: conduit tax relief credits of consolidated groups, row 6 (transfer from group's FDWP account) for a transfer from the group's conduit tax relief account.

*Application of refund*

- (2) The Commissioner may apply the amount of the refund to satisfy an amount owing under the Inland Revenue Acts by the group.

Defined in this Act: amount, Commissioner, conduit tax relief account, conduit tax relief credit, consolidated FDWP group

Origin: 2004 No 35 s MI 22(4)



## *Consolidated groups and branch equivalent tax accounts*

### *Introductory provisions*

#### **MP 89 Branch equivalent tax accounts of consolidated BETA groups**

##### *Consolidated group accounts*

- (1) A consolidated group is a branch equivalent tax account group (**consolidated BETA group**) for a tax year if—
  - (a) a group company is a BETA company at a time during the tax year; or
  - (b) the group chooses to maintain a branch equivalent tax account.

##### *Notifying Commissioner*

- (2) The nominated company of a consolidated BETA group must notify the Commissioner of an election under subsection (1)(b)—
  - (a) no later than 21 days after the day of election; or
  - (b) by a later time if the Commissioner allows.

Defined in this Act: BETA company, branch equivalent tax account, Commissioner, consolidated BETA group, nominated company, notify, tax year

Origin: 2004 No 35 s MF 7(1), (2)

#### **MP 90 Choosing to stop being consolidated BETA group**

##### *Election*

- (1) The nominated company of a consolidated BETA group may choose that the group's status as a consolidated BETA group is to stop.

##### *No election*

- (2) An election under subsection (1) may be made during a tax year that is later than the tax year in which the group chooses under section MP 89 to become a consolidated BETA group.

***When group ends status***

- (3) The election takes effect from the start of the later tax year referred to in subsection (2) but only if—
- (a) the group files an annual imputation return for the year of election in the time allowed by section 69 of the Tax Administration Act 1994; and
  - (b) no group company is a BETA company in the tax year after the year of the election.

Defined in this Act: annual imputation return, BETA company, branch equivalent tax account, company, consolidated BETA group, nominated company, tax year

Origin: 2004 No 35 s MF 7(3), (4)

**MP 91 When credits and debits arise only in branch equivalent tax group accounts**

***Credits only in group accounts***

- (1) A credit listed in subsection (2) arises only in the branch equivalent tax account of a consolidated BETA group and not in the branch equivalent tax account of a group company.

***Particular credits***

- (2) The credit referred to in subsection (1) is a credit described the following rows of table M25: branch equivalent tax credits of consolidated BETA groups:
- (a) row 2 (payment of income tax on foreign income); and
  - (b) row 4 (refund of FDWP).

***Debits only in group accounts***

- (3) A debit listed in subsection (4) arises only in the branch equivalent tax account of a consolidated BETA group and not in the branch equivalent tax account of a group company.

***Particular debits***

- (4) The debit referred to in subsection (3) is a debit described in the following rows of table M26: branch equivalent tax debits of consolidated BETA groups:
- (a) row 2 (payment of FDWP); and
  - (b) row 4 (refund of income tax).

Defined in this Act: branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, company, consolidated BETA group, dividend, FDWP, income tax, pay

Origin: 2004 No 35 s MF 9

*Branch equivalent tax credits of consolidated BETA groups*

**Table M25: branch equivalent tax credits of consolidated BETA groups**

Row	Branch equivalent tax credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Payment of income tax on foreign income</i>		
	Income tax paid on foreign income derived in an income year	day the return of income for the income year is filed	section MP 92
3	<i>Payment of income tax</i>		
	A debit balance applied to satisfy an income tax liability	day of election	section MP 93
4	<i>Refund of FDWP</i>		
	A refund of FDWP	day of refund	section MP 95
5	<i>Credit for loss of shareholder continuity</i>		
	A credit for loss of shareholder continuity	day of loss of continuity	section MP 96
<p><b>How to use this table</b></p> <p>Each row in the table describes—</p> <p>(a) the branch equivalent tax credits that may arise in the branch equivalent tax account of a consolidated group during a tax year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the branch equivalent tax credits is contained in the section noted in the last column.</p>			

**MP 92 Consolidated BETA payment of income tax on foreign income**

*Credit*

- (1) A consolidated BETA group has a branch equivalent tax credit as described in table M25: branch equivalent tax credits of consolidated BETA groups, row 2 (payment of income tax on foreign income) for an amount calculated using the formula—

$$((\text{group CFC income} - \text{group deductions}) \times \text{tax rate}) - \text{foreign tax} - \text{debit balances.}$$

*Definition of items in formula*

- (2) In the formula,—
- (a) **group CFC income** is the amount of attributed foreign income derived by the group during the income year:
  - (b) **group deductions** is the total amount for the group for an income year of—
    - (i) attributed CFC loss; and
    - (ii) attributed CFC net loss; and
    - (iii) FIF loss; and
    - (iv) FIF net loss:
  - (c) **tax rate** is the decimal fraction that is the basic rate of income tax set out in, as applicable,—
    - (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
    - (ii) schedule 1, part A, clause 2 if the company is a Maori authority:
  - (d) **foreign tax** is the amount of foreign tax credits allowed under section LC 4 or LC 5 (which relate to foreign tax credits of CFCs) relating to the group's income tax liability for the income year:
  - (e) **debit balances** is the amount of all debit balances in a branch equivalent tax account applied to satisfy the group's income tax liability for the income year.

*Credit date*

- (3) The credit date is the day the nominated company files the return of income for the tax year corresponding to the income year for which the calculation is made.

Defined in this Act: amount, attributed CFC loss, attributed CFC net loss, attributed foreign income, basic rate, branch equivalent tax account, branch equivalent tax credit, consolidated BETA group, FDWP, FIF loss, FIF net loss, foreign tax, income tax, income tax liability, income year, Maori authority, nominated company, return of income, tax year

Origin: 2004 No 35 s MF 8(2)(a), (3)(a)

**MP 93 Consolidated BETA payment of income tax**

*When this section applies*

- (1) This section applies when a consolidated BETA group has a debit balance in its branch equivalent tax account or in the branch equivalent tax account of a group company arising as follows:

- (a) the income of the group for an income year includes attributed CFC income is derived by—
  - (i) the group; or
  - (ii) a company (**group company B**) that would be in the same group of companies as the group if the group were a single company; and
- (b) an amount of FDWP that gives rise to a debit included in the debit balance has been paid—
  - (i) directly; or
  - (ii) by reducing a net loss; or
  - (iii) to reduce an FDWP liability under section NH 7 (Reduction in liability under conduit tax relief).

***Election***

- (2) The nominated company of the consolidated BETA group may choose to apply some or all of the debit balance to satisfy an income tax liability of the group or of group company B for a tax year that corresponds to the income year referred to in subsection (1).

***Credit***

- (3) The amount that is applied to satisfy the income tax liability referred to in subsection (2) is a branch equivalent tax credit described in table M25: branch equivalent tax credits of consolidated BETA groups, row 3 (payment of income tax) in the group's branch equivalent tax account.

***Income tax paid***

- (4) For the purposes of this section, the income tax liability—
  - (a) is calculated by applying the formula in section MP 92 on the basis that the item “debit balances” is zero; and
  - (b) is satisfied to the extent to which the liability is not more than the income tax payable in relation to the amount of attributed CFC income.

***Who makes the election***

- (5) The consolidated BETA group makes the election referred to in subsection (2) as follows:
  - (a) if the group's income tax liability is to be satisfied, the election may be made by—
    - (i) the nominated company; or
    - (ii) another group company; or
    - (iii) a company that would be in the same group of companies as the group if the group were a single company; and
  - (b) if group company B's income tax liability is to be satisfied, the election must be made by the nominated company.

*How election made*

- (6) An election is made under subsection (5) by recording the credit in the branch equivalent tax account of the group or group company B.

*Credit date*

- (7) The credit date is the day of election.

Defined in this Act: amount, attributed CFC income, branch equivalent tax account, branch equivalent tax credit, company, consolidated BETA group, dividend, FDWP, income, income tax, income tax liability, income year, Maori authority, net loss, nominated company, pay

Origin: 2004 No 35 ss MF 8(2)(c), (3)(b), MF 10(4), (5), (6)

**MP 94 Consolidated BETA remaining debit balances**

*When this section applies*

- (1) This section applies for the purposes of section MP 93 when an income tax liability of a consolidated BETA group or group company is satisfied by applying some of a debit balance in the group's branch equivalent tax account, or in the account of another company in the same consolidated BETA group, and a debit balance remains after the credit is recorded in the account.

*Net loss*

- (2) The residue of the debit balance is converted into a net loss for the purposes of subparts IE, IF, and IG (which relate to the treatment of net losses). The amount of the net loss is calculated using the formula—

$$\frac{\text{balance}}{\text{tax rate.}}$$

*Definition of items in formula*

- (3) In the formula,—
- (a) **balance** is the amount of the debit balance remaining in the branch equivalent tax account:
- (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in, as applicable,—
- (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
- (ii) schedule 1, part A, clause 2 if the company is a Maori authority.

*Group's net loss*

- (4) The net loss belongs to the consolidated group.

Defined in this Act: amount, attributed CFC income, basic rate, branch equivalent tax account, branch equivalent tax credit, company, consolidated BETA group, dividend, income tax, Maori authority, net loss

Origin: 2004 No 35 ss MF 8(2)(c), (3)(b), MF 10(4), (5), (6)

### **MP 95 Consolidated BETA refund of FDWP**

#### ***Credit***

- (1) A consolidated BETA group has a branch equivalent tax credit for a tax year as described in table M25: branch equivalent tax credits of consolidated BETA groups, row 4 (refund of FDWP) for the amount of a refund of FDWP. Subsections (2) and (3) override this subsection.

#### ***Refund giving rise to debit***

- (2) A refund under subsection (1) must be a refund of a payment of FDWP that gave rise to a debit described in table M26: branch equivalent tax debits of consolidated BETA groups, row 2 (payment of FDWP).

#### ***Reduction***

- (3) The amount of the credit under subsection (1) is reduced to the extent to which—
- (a) the payment of FDWP is made before a branch equivalent tax credit arises as described in table M25: branch equivalent tax credits of consolidated BETA groups, row 5 (credit for loss of shareholder continuity) in the group's branch equivalent tax account; and
  - (b) the amount of the refund is not more than the amount of the credit for the loss of shareholder continuity.

#### ***Credit date***

- (4) The credit date is the day the refund is made.

Defined in this Act: amount, branch equivalent tax account, branch equivalent tax credit, consolidated BETA group, consolidated group, FDWP, payment, shareholder, tax year

Origin: 2004 No 35 s MF 8(1)(d), (3)(c)

### **MP 96 Consolidated BETA credit for loss of shareholder continuity**

#### ***Credit***

- (1) A consolidated BETA group has a branch equivalent tax credit as described in table M25: branch equivalent tax credits of consolidated BETA groups, row 5 (credit for loss of shareholder continuity) for the amount of a branch equivalent tax debit

retained in the branch equivalent tax account and unused before the date of breach in shareholder continuity.

***Credit date***

- (2) The credit date is the day of loss of continuity.

Defined in this Act: amount, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, consolidated BETA group, shareholder

Origin: 2004 No 35 s MF 8(2)(e), (3)(d)

*Branch equivalent tax debits of consolidated BETA groups*

**Table M26: branch equivalent tax debits of consolidated BETA groups**

Row	Branch equivalent debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of FDWP</i>		
	FDWP paid on a dividend derived from a CFC	day of payment	section MP 97
3	<i>Reduction of FDWP</i>		
	A credit balance applied to satisfy an FDWP liability	due date for payment of the FDWP	section MP 98
4	<i>Refund of income tax</i>		
	A refund of income tax for attributed CFC income	day of refund	section MP 99
5	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity	day of loss of continuity	section MP 100
<p><b>How to use this table</b></p> <p>Each row in the table describes—</p> <p>(a) the branch equivalent tax debits that may arise in the branch equivalent tax account of a consolidated group during a tax year; and</p> <p>(b) the debit date when the debit arises.</p> <p>A more detailed description of the branch equivalent tax debits is contained in the section noted in the last column.</p>			



### **MP 97 Consolidated BETA payment of FDWP**

#### ***Debit***

- (1) A consolidated BETA group has a branch equivalent tax debit as described in table M26: branch equivalent tax debits of consolidated BETA groups, row 2 (payment of FDWP) for a payment of FDWP that—
  - (a) is calculated before a reduction of liability under section NH 7 (Reduction in liability under conduit tax relief); and
  - (b) must have been payable in relation to a dividend derived by a group company from an income interest in a CFC; and
  - (c) may have been paid to reduce a net loss.

#### ***Debit date***

- (2) The debit date is the day the FDWP is paid.

Defined in this Act: branch equivalent tax account, branch equivalent tax debit, CFC, consolidated BETA group, dividend, FDWP, pay, net loss

Origin: 2004 No 35 s MF 8(4)(a), (5)(a)

### **MP 98 Consolidated BETA reduction of FDWP**

#### ***Election***

- (1) The nominated company of a consolidated BETA group may choose to use some or all of a credit balance in the group's branch equivalent tax account to reduce an FDWP liability of—
  - (a) a group company; or
  - (b) a company that would be in the same group of companies as the group if the group were a single company.

#### ***Debit***

- (2) The amount of the reduction is a debit arising in the group's branch equivalent tax account as described in table M26: branch equivalent tax debits of consolidated BETA groups, row 3 (reduction of FDWP).

#### ***Manner of election***

- (3) The nominated company makes the election by recording the amount of the credit balance used as a debit in the group's branch equivalent tax account.

#### ***Debit date***

- (4) The debit date is the due date for the payment of FDWP.

Defined in this Act: amount, branch equivalent tax account, branch equivalent tax debit, company, consolidated BETA group, dividend, FDWP, nominated company

Origin: 2004 No 35 ss MF 8(4)(b), (5)(b), MF 10(1)

### **MP 99 Consolidated BETA refund of income tax**

#### ***Debit***

- (1) A consolidated BETA group has a branch equivalent tax debit as described in table M26: branch equivalent tax debits of consolidated BETA groups, row 4 (refund of income tax) for the amount of a refund of income tax attributable to income tax paid for a tax year on attributed CFC income as if it were the only income derived by the group.

#### ***Reduction***

- (2) The amount of the debit is reduced to the extent to which—
  - (a) a debit arises in the group's branch equivalent tax account as described in table M26: branch equivalent tax debits of consolidated BETA groups, row 5 (debit for loss of shareholder continuity); and
  - (b) the income tax was paid before the debit date for the debit for loss of shareholder continuity.

#### ***Debit date***

- (3) The debit date is the day the refund is made.

Defined in this Act: amount, attributed CFC income, branch equivalent tax account, branch equivalent tax debit, consolidated BETA group, income tax, income year, pay, shareholder, tax year

Origin: 2004 No 35 s MF 8(4)(c), (5)(c)

### **MP 100 Consolidated BETA debit for loss of shareholder continuity**

#### ***Debit***

- (1) A consolidated BETA group has a branch equivalent tax debit as described in table M26: branch equivalent tax debits of consolidated BETA groups, row 5 (debit for loss of shareholder continuity) for the amount of a branch equivalent tax account credit retained in the branch equivalent tax account and unused before the date of breach in shareholder continuity.

#### ***Debit date***

- (2) The debit date is the day of loss of continuity.

Defined in this Act: amount, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, consolidated BETA group, shareholder

Origin: 2004 No 35 s MF 8(4)(d), (5)(d)

### *Consolidated groups and policyholder credit accounts*

#### *Introductory provision*

#### **MP 101 Policyholder credit accounts of consolidated groups**

A consolidated group has a policyholder credit account if a group company is a PCA company.

Defined in this Act: consolidated group, PCA company, policyholder credit account

Origin: 2004 No 35 s ME 25

#### *Policyholder credits of consolidated groups*

**Table M27: policyholder credits of consolidated groups**

Row	Policyholder credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Transfer from imputation credit account</i>		
	A transfer of a credit balance from an imputation credit account	debit date in the imputation credit account for the transfer	section MP 102
3	<i>Transfer from FDWP account</i>		
	A transfer of a credit balance from an FDWP account	day of election under section MP 66	section MP 103

4	<i>Group company's credit</i>		
	A credit transferred from a group company's policyholder credit account	debit date in the group company's account for the transfer	section MP 104
5	<i>Credit for FDWP account maximum deficit</i>		
	A debit for an FDWP account maximum deficit that arises during a tax year	31 March	section MP 105
6	<i>Credit for FDWP account reduced deficit</i>		
	A transfer of a credit balance from an FDWP account for a reduced deficit debit that arises during a tax year	31 March	section MP 106
<p><b>How to use this table</b></p> <p>Each row of the table describes—</p> <p>(a) the policyholder credits that may arise in the policyholder credit account of a consolidated group during a tax year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the policyholder credits is contained in the section noted in the last column.</p>			

### **MP 102 Consolidated PCA transfer from imputation credit account**

#### ***Credit***

- (1) A consolidated group has a policyholder credit as described in table M27: policyholder credits of consolidated groups, row 2 (transfer from imputation credit account) for an amount equal to the imputation debit described in table M20: imputation debits of consolidated imputation groups, row 15 (transfer to policyholder credit account).

#### ***Credit date***

- (2) The credit date is the same as the debit date recorded for the transfer in the imputation credit account.

Defined in this Act: amount, consolidated group, consolidated imputation group, imputation credit account, imputation debit, policyholder credit, policyholder credit account

Origin: 2004 No 35 s ME 26(2)(a), (3)(a)

### **MP 103 Consolidated PCA transfer from FDWP account**

#### ***Credit***

- (1) A consolidated group has a policyholder credit as described in table M27: policyholder credits of consolidated groups, row 3 (transfer from FDWP account) for an amount equal to the amount of the FDWP debit described in table M22: FDWP debits of consolidated FDWP groups, row 11 (transfer to policyholder credit account).

#### ***Credit date***

- (2) The credit date is the day of election referred to in section MP 66.

Defined in this Act: amount, consolidated group, FDWP debit, policyholder credit, policyholder credit account

Origin: 2004 No 35 s ME 26(2)(b), (3)(b)

### **MP 104 Consolidated PCA group company's credit**

#### ***Credit***

- (1) A consolidated group has a policyholder credit as described in table M27: policyholder credits of consolidated groups, row 4 (group company's credit) for the amount of a credit arising as follows:
  - (a) a policyholder credit described in a row of table M13: policyholder credits, arises in the policyholder credit account of a group company; and
  - (b) a policyholder debit described in a row of table M28: policyholder debits of consolidated groups, arises in the policyholder credit account of the group; and
  - (c) the debit is not offset by a credit arising in the group account before the credit arose in the group company's account.

#### ***Offsetting debits***

- (2) For the purposes of subsection (1)(c), to determine whether a debit has been offset by a credit in the group account—
  - (a) credits are treated as reducing debits in the order in which the credits arise; and
  - (b) a credit, whether some or all, is counted only once in determining whether the debit has been offset; and
  - (c) credits in the accounts of more than 1 group company become a credit to the group account—
    - (i) in the order of their credit date; and
    - (ii) as chosen by the group, if the credits arise on the same credit date; and

- (iii) on a pro rata basis, if no election is made under subparagraph (ii).

***Credit date***

- (3) The credit date is the day the debit is recorded as transferred to the group account.

Defined in this Act: amount, company, consolidated group, policyholder credit, policyholder credit account, policyholder debit

Origin: 2004 No 35 ss ME 26(2)(c), (3)(c), ME 27(1), (3)

**MP 105 Consolidated PCA maximum deficit debit in FDWP account**

***Credit***

- (1) A consolidated group has a policyholder credit for a tax year as described in table M27: policyholder credits of consolidated groups, row 5 (credit for FDWP account maximum deficit) for an amount equal to the amount of the FDWP debit—
- (a) that arises during the tax year in the group's FDWP account as described in table M22: FDWP debits of consolidated FDWP groups, row 12 (breach of FDWP ratio by PCA company); and
- (b) whose amount is calculated under sections MC 20 and MC 33 (which relate to the maximum deficit debit).

***Credit date***

- (2) The credit date is the last day of the tax year.

Defined in this Act: amount, consolidated group, FDWP account, FDWP debit, FDWP ratio, maximum deficit debit, PCA company, policyholder credit, policyholder credit account, tax year

Origin: 2004 No 35 s ME 26(2)(d), (3)(d)

**MP 106 Consolidated PCA reduced deficit debit in FDWP account**

***Credit***

- (1) A consolidated group has a policyholder credit for a tax year as described in table M27: policyholder credits of consolidated groups, row 6 (credit for FDWP account reduced deficit) for an amount equal to the amount of the FDWP debit—
- (a) that arises during the tax year in the group's FDWP account as described in table M22: FDWP debits of consolidated FDWP groups, row 12 (breach of FDWP ratio by PCA company); and
- (b) whose amount is calculated under sections MC 20 and MC 35 (which relate to the reduced deficit debit).

***Credit date***

- (2) The credit date is the last day of the tax year.

Defined in this Act: amount, consolidated group, FDWP account, FDWP debit, FDWP ratio, PCA company, policyholder credit, policyholder credit account, tax year

Origin: 2004 No 35 s ME 26(2)(e), (3)(d)

***Policyholder debits of consolidated groups***

**Table M28: policyholder debits of consolidated groups**

Row	Policyholder debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 6
2	<i>Payment of tax relating to policyholder base</i>		
	A credit balance applied to satisfy a policyholder base income tax or provisional tax liability for an income year	last day of the income year	section MP 107
3	<i>Transfer to imputation credit account</i>		
	A credit balance transferred to an imputation credit account	day of election	section MP 108
<p><b>How to use this table</b></p> <p>Each row of the table describes—</p> <p>(a) the policyholder debits that may arise in the policyholder credit account of a consolidated group during a tax year; and</p> <p>(b) the debit date when the debit arises.</p> <p>A more detailed description of the policyholder debits is contained in the section noted in the last column.</p>			

**MP 107 Consolidated PCA payment of tax relating to policyholder base**

***Election***

- (1) The nominated company of a consolidated group may choose for a tax year to apply some or all of a credit balance in the group’s policyholder credit account to satisfy—
- (a) a policyholder base income tax liability of the group; or

- (b) a provisional tax liability of the group for its policyholder base.

***Manner of election***

- (2) The company makes an election under subsection (1) by recording as a debit in the group account the amount of the credit balance applied to satisfy the policyholder base income tax liability.

***Effect of election***

- (3) As a result of the election—
  - (a) a policyholder debit described in table M28: policyholder debits of consolidated groups, row 2 (payment of tax relating to policyholder base) arises in the account; and
  - (b) the group's liability for the income tax or provisional tax is satisfied.

***Debit date***

- (4) The debit date is the last day of the income year corresponding to the tax year.

Defined in this Act: amount, consolidated group, income tax, income year, nominated company, pay, PCA company, policyholder base, policyholder base income tax liability, policyholder credit account, policyholder debit, provisional tax, tax year

Origin: 2004 No 35 ss ME 26(4)(a), (5)(a), ME 28(1), (2)

**MP 108 Consolidated PCA transfer to imputation credit account**

***Election***

- (1) The nominated company of a consolidated group may choose for a tax year to transfer some or all of a credit balance in the group's policyholder credit account to the imputation credit account of—
  - (a) the consolidated imputation group that the company is part of; or
  - (b) the imputation group that includes the companies in the consolidated group.

***Exclusion***

- (2) Despite subsection (1), the election must exclude an amount of the credit balance that arises in the following circumstances:
  - (a) the group has adopted a non-standard accounting year; and
  - (b) during the accounting year that includes the last day of the tax year, an election has been made that means that the credit balance includes a credit described in the following rows of table M27: policyholder credits of consolidated groups:
    - (i) row 2 (transfer from imputation credit account):
    - (ii) row 3 (transfer from FDWP account); and



- (c) an election under this section would result in a debit to the policyholder credit account during the tax year.

***Debit and credit***

- (3) The amount of the credit balance transferred under subsection (1) is—
  - (a) a debit described in table M28: policyholder debits of consolidated groups, row 3 (transfer to imputation credit account) in the group’s policyholder credit account; and
  - (b) a credit described in table M19: imputation credits of consolidated imputation groups, row 14 (transfer from group’s policyholder credit account) in the imputation credit account of the relevant group.

***Credit balance reduced***

- (4) Despite subsection (2)(b) the credit balance includes a credit that is cancelled by a later debit to the account.

***Cancellation***

- (5) Whether a debit cancels a credit for the purposes of subsection (3) is found by treating debits as offsetting credits in the order in which the credits arise in the account.

***Manner of election***

- (6) The company makes the election by recording the amount of the credit balance transferred as—
  - (a) a debit in the group’s policyholder credit account; and
  - (b) a credit in the imputation credit account of—
    - (i) the consolidated imputation group; or
    - (ii) the imputation group.

***Debit date***

- (7) The debit date is the day of election.

Defined in this Act: accounting year, amount, company, consolidated group, consolidated imputation group, imputation credit account, imputation group, nominated company, non-standard accounting year, PCA company, policyholder credit, policyholder credit account, policyholder debit, tax year

Origin: 2004 No 35 ss ME 26(4)(b), (5)(b), ME 28(3), (4)

## **Subpart MZ - Terminating provisions**

### **Contents**

- MZ 1 No imputation credit for pre-imputation tax paid
- MZ 2 No imputation debit for pre-imputation refund
- MZ 3 Overpaid income tax or FDWP for pre-imputation income year
- MZ 4 Terminating modifications to debits for loss of shareholder continuity
- MZ 5 ASCA lost excess available subscribed capital
- MZ 6 ASCA redemption of unused investments

### **MZ 1 No imputation credit for pre-imputation tax paid**

No imputation credit arises in the imputation credit account of an ICA company for a payment of income tax imposed for a pre-imputation income year.

Defined in this Act: ICA company, imputation credit, imputation credit account, income tax, pay, pre-imputation income year

Origin: 2004 No 35 s ME 4(1)(viii)

### **MZ 2 No imputation debit for pre-imputation refund**

No imputation debit arises in the imputation credit account of an ICA company for a refund of income tax for a pre-imputation income year.

Defined in this Act: ICA company, imputation credit account, imputation debit, income tax, pre-imputation income year

Origin: 2004 No 35 s ME 5(1)(e)

### **MZ 3 Overpaid income tax or FDWP for pre-imputation income year**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 11 (overpayment of income tax or FDWP) for an amount of overpaid income tax and FDWP that is applied, when the company is not an FDWP company, to satisfy the company's income tax liability under section BB 1 (Imposition of income tax) for a pre-imputation income year. Subsection (2) overrides this subsection.

#### ***No debit***

- (2) The debit does not include an amount of overpaid income tax and FDWP that is—
  - (a) paid before an imputation debit described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity); and
  - (b) not more than the debit for loss of shareholder continuity.

#### ***Debit date***

- (3) The debit date is the amount is applied.

Defined in this Act: amount, company, FDWP, FDWP company, ICA company, imputation credit account, imputation debit, income tax, income tax liability, pay, pre-imputation income year, shareholder

Origin: 2004 No 35 s ME 5(1)(n)

#### **MZ 4 Terminating modifications to debits for loss of shareholder continuity**

The terminating modifications that apply under section MA 8(8) (Shareholder continuity requirements for memorandum accounts) are—

- (a) the requirement for shareholder continuity does not apply to a credit that arises on or before 16 December 1988; and
- (b) credits arising after 16 December 1988 and before 1 April 1992 are treated as 1 credit arising on 1 April 1992 and, until such time as the credit can be treated as cancelled by later debits,—
  - (i) the shareholder continuity requirement applying to the credit is the earlier version of the requirement incorporated in section 394E(2)(g) of the Income Tax Act 1976 (despite its repeal and replacement by section 51 of the Income Tax Act Amendment Act (No 2) 1992); and
  - (ii) the earlier version of the requirement in section 394E(2)(g) applies by reading the figure “66” instead of the figure “75”.

Defined in this Act: shareholder

Origin: 2004 No 35 ss ME 5(4), MG 5(4)

#### **MZ 5 ASCA lost excess available subscribed capital**

##### ***When this section applies***

- (1) This section applies when a qualifying unit trust or a group investment fund that derives category A income—
  - (a) is in existence between 17 October 2002 and 30 September 2003 (both dates inclusive); and
  - (b) has redeemed a unit in the trust or fund; and
  - (c) the slice rule was used to determine the tax treatment of the proceeds from the redemption; and
  - (d) the amount paid on subscription for a unit is less than the amount paid on redemption.

##### ***Calculating opening balance***

- (2) The trust or fund may choose for the period to calculate an opening credit balance using 1 of the methods set out in subsections (3) and (4).

##### ***Method 1***

- (3) Method 1 requires the trust or fund to calculate the actual amount of available subscribed capital lost, that is the difference, in total, between the amount paid on subscription for a unit and the amount paid on redemption of the unit.

***Method 2***

- (4) Method 2 requires the trust or fund to make a calculation for the notional winding up of the trust or fund by taking the following steps:
- (a) step 1: determine the total amount of tax that would be payable on liquidation, treating the value of assets and liabilities as determined at their market value at the date of the notional liquidation according to provisions applying at that date;
  - (b) step 2: determine the amount of notional credits that are available after notional tax is paid in relation to them;
  - (c) step 3: determine the amount of notional credits required to fully impute, for each unit holder, the payment of a redemption dividend, and aggregate the amounts, applying the maximum imputation ratio to the total amount;
  - (d) step 4: establish the imputation credit shortfall between the notional credits under step 2 and the credits required under step 3.

***Opening balance***

- (5) The amount of the opening balance is—
- (a) the amount of the difference for method 1; and
  - (b) the shortfall referred to in subsection (4)(d) for method 2.

***Certain causes of shortfalls***

- (6) For the purposes of subsection (4), the structural features of the taxation and imputation systems that would allow a company that does not issue shares on terms subject to section CD 14(4) (Returns of capital: off-market share cancellations) to fully impute a distribution made on the liquidation of the company, include the tax effects of—
- (a) non-taxable gains and losses, including exempt income but excluding a dividend subject to section NH 1 (Liability to make deduction in respect of foreign withholding payment dividend); and
  - (b) imputation credits lost because of a breach in the shareholder continuity requirements; and
  - (c) foreign tax credits; and
  - (d) retained earnings generated before the trust or fund established an imputation credit account.

***Date of notional liquidation, orderly calculations***

- (7) For the purposes of this section,—
- (a) the date of notional liquidation is the date chosen by the trust or fund falling in the period referred to in subsection (1)(a);
  - (b) a calculation under this section must be undertaken in a manner consistent with the preparation of financial statements and unit pricing calculations, based on an orderly realisation of assets in the ordinary course of business and demonstrable market valuations.

Defined in this Act: amount, available subscribed capital, business, category A income, dividend, exempt income, foreign tax, group investment fund, imputation credit, imputation credit account, imputation ratio, liquidation, qualifying unit trust, share, slice rule

Origin: 2004 No 35 s MJ 4

## **MZ 6 ASCA redemption of unused investments**

### ***When this section applies***

- (1) The section applies when a qualifying trust or a group investment fund that derives category A income—
  - (a) redeems a share within the meaning in paragraphs (c) and (d) of the definition of **share** in section OB 1 (Definitions); and
  - (b) has never established an ASC account.

### ***Election***

- (2) The company may choose to establish an ASC account, and the only ASC account credit arising in the account is an ASC account credit for an opening balance calculated under section MZ 5(5).

### ***Closing balance***

- (3) An opening balance under subsection (2) is treated as the closing balance of the account.

Defined in this Act: ASC account, ASC account company, ASC account credit, category A income, group investment fund, qualifying trust, share

Origin: 2004 No 35 s MJ 7

### Section OB 1 for Part M

accounting profits method		
accounting year		
additional income tax	new	
amalgamated company		
amalgamating company		
amalgamation		
amount		
annual branch equivalent tax account return	define by reference to sections 77 and 78 of the Tax Administration Act 1994	
annual FDWP return	define by reference to sections 71 and 72 of the Tax Administration Act 1994	
annual policyholder credit account return	define by reference to section 66 of the Tax Administration Act 1994	
annual imputation return	define by reference to section 69 of the Tax Administration Act 1994	
arrangement		
ASC account	new	
ASC account company	new	
ASC account credit	new	
ASC account debit	new	
assessable income		
attributed CFC income		
attributed CFC loss		
attributed CFC net loss		
attributing interest		
Australian ICA company	replaces Australian imputation credit account company, update section reference	
available net loss		
available subscribed capital		
basic rate		
benchmark distribution	update terminology	
benchmark dividend	update section reference	
BETA company	replaces branch equivalent tax account company, update section references	
BETA person	replaces branch equivalent tax account person, update section references	
branch equivalent method		
branch equivalent tax account	update section references and terminology	
branch equivalent tax credit	new	
branch equivalent tax debit	new	
business		
category A income		
CFC		
close of trading spot exchange rate		
combined imputation and FDWP ratio	replaces combined imputation and dividend withholding payment ratio	

combined imputation and conduit tax relief ratio	new	
Commissioner		
company		
company dividend statement		
conduit tax relief account	update section reference and terminology	
conduit tax relief company	update section references	
conduit tax relief credit	replaces existing	
conduit tax relief debit	new	
conduit tax relief ratio	new	
consolidated group		
consolidated BETA group	new	MP 89
consolidated FDWP group	new	MP 46
consolidated imputation group		
co-operative company		
Crown Research Institute		
deduction		
dividend	update section references	
double tax agreement		
excess credit amount	update section references	
exempt income		
FDWP	replaces dividend withholding payment	
FDWP account	replaces dividend withholding payment account, update section references and terminology	
FDWP company	replaces dividend withholding payment account company, update section references	
FDWP credit	replaces dividend withholding payment credit	
FDWP debit	new	
FDWP penalty tax		
FDWP ratio	replaces dividend withholding payment ratio	
FDWP reference period	new	MC 32
FDWP rules	replaces dividend withholding payment rules, update section references	
FIF		
FIF income		
FIF loss		
FIF net loss		
financial statements	update section reference	
foreign tax		
further FDWP	replaces further dividend withholding payment, update section reference	
further income tax	update section reference	
group investment fund		
group of companies		
group of persons		
ICA company	replaces imputation credit account company, update section references	
imputation credit	replaces existing definition	
imputation credit account	update section references	



imputation debit	new	
imputation group		
imputation penalty tax		
imputation ratio	replaces existing definition	
imputation return		
imputation rules		
income		
income interest		
income tax		
income tax liability		
income year		
Inland Revenue Acts		
intermediary		
investor		
levy		
life insurance		
life insurer		
liquidation		
local authority		
Maori authority		
Maori authority credit	replaces existing definition	
Maori authority credit account	update section reference	
Maori authority credit ratio	new	
Maori authority debit	new	
Maori authority rules	update section references	
market value circumstance		
market value interest		
master fund		
maximum deficit debit	replaces existing definition	MC 33
member	update section references	
memorandum account	new	MA 2
net loss		
New Zealand		
nominated company		
non-resident		
non-resident company		
non-resident withholding income		
non-resident withholding tax		
non-standard accounting year		
notice		
notify		
on-market cancellation		
pay		
PCA company	replaces policyholder credit account company, update section references and terminology	
PCA person		
policyholder base		
policyholder base income tax liability		

policyholder credit	new	
policyholder credit account	update section references and terminology	
policyholder debit	new	
policyholder FDWP ratio	replaces existing definition (policyholder DWP ratio)	MC 34
policyholder income		
policyholder net loss		
pre-imputation income year	new	
produce transactions	update section references	
provisional tax		
qualifying amalgamation		
qualifying company		
qualifying unit trust		
reduced deficit debit	update section reference	MC 35
resident imputation subgroup		
resident in Australia		
resident withholding income		
resident withholding tax		
resident in New Zealand		
schedular income		
share		
shareholder	update section references	
shareholder dividend statement		
shareholder FDWP ratio	replaces existing definition (shareholder DWP ratio)	MC 36
slice rule		
statutory producer board		
supplementary dividend		
tax		
tax advantage	update section references	
tax deduction		
tax year		
taxable Maori authority distribution		
trans-Tasman imputation group		
trustee		
ultimate owner	new	
unadjusted income tax liability		
unit trust		
voting interest		
wholly-owned group		
withholding payment		

**Definitions for inclusion in section OB 1:**

**additional income tax** means an amount of tax arising under section MB 64 (Additional income tax on leaving wholly-owned group) or MB 65 (Additional income tax on joining wholly-owned group)

**ASC account** means a memorandum account established by an ASC account company under [section MF 1\(2\)](#) (General rules for ASC account companies)

**ASC account company** means a company that chooses under [section MF 1\(1\)](#) (General rules for ASC account companies) to maintain an ASC account

**ASC account credit** means a credit referred to in [section MA 5\(6\)](#) (Credits)

**ASC account debit** means a debit referred to in [section MA 6\(6\)](#) (Debits)

**branch equivalent tax credit** means a credit referred to in [section MA 5\(5\)](#) (Credits)

**branch equivalent tax debit** means a debit referred to in [section MA 6\(5\)](#) (Debits)

**combined imputation and FDWP ratio** means the ratio set out in [section MC 26](#) (FDWP credits and imputation credits attached to dividends)

**combined imputation and conduit tax relief ratio** means the ratio set out in [section MD 22](#) (CTR credits and imputation credits attached to dividends)

**conduit tax relief credit** means a credit referred to in [section MA 5\(4\)](#) (Credits)

**conduit tax relief debit** means a debit referred to in [section MA 6\(4\)](#) (Debits)

**conduit tax relief ratio** means the ratio set out in [section MD 20](#) (CTR credits attached to dividends)

**consolidated BETA group** is defined in [section MP 89\(1\)](#) (Branch equivalent tax accounts of consolidated BETA groups)

**consolidated FDWP group** is defined in [section MP 46\(1\)](#) (FDWP accounts of consolidated FDWP groups)

**excess tax payment**, for a company at a time, means the amount at the time by which a payment made by or on behalf of the company to the Commissioner for income tax or provisional tax is more than the liability at the time of the company to pay income tax and provisional tax

**FDWP** means a foreign dividend withholding payment required under [section NH 1\(1\)](#) (Liability to make deduction in respect of foreign withholding payment dividend) to be deducted from a dividend derived from a non-resident company

**FDWP account** means a memorandum account maintained under [section MC 1\(2\)](#) (General rules for companies with FDWP accounts) by an FDWP company or by a consolidated group

**FDWP company** means a company that chooses under [section MC 1](#) (General rules for companies with FDWP accounts) to maintain an FDWP account

**FDWP credit** is a credit referred to in [section MA 5\(3\)](#) (Credits)

**FDWP debit** is a debit referred to in [section MA 6\(3\)](#) (Debits)

**FDWP ratio** means the ratio set out in [section MC 24](#) (FDWP credits attached to dividends)

**FDWP reference period** is defined in [section MC 32](#) (Meaning of FDWP reference period)

**ICA company** is defined in [section MB 1\(1\)](#) (General rules for companies with imputation credit accounts)

**imputation credit**—

- (a) means a credit referred to in [section MA 5\(2\)](#) (Credits):
- (b) is further defined in [section CD 10\(4\)](#) (Certain dividends not increased by tax credits) for the purposes of that section

**imputation debit** is a debit referred to in [section MA 6\(2\)](#) (Debits)

**imputation ratio** means the ratio set out in [section MB 55](#) (Imputation credits attached to dividends)

**Maori authority credit**, for a distribution by a Maori authority, means—

- (a) a credit referred to in [section MA 5\(8\)](#) (Credits):
- (b) the amount treated as being attached to the distribution under [section NF 8A](#) (Resident withholding tax deductions from distributions treated as Maori authority credits)

**Maori authority credit ratio** means the ratio set out in [section MK 19](#) (Maori authority credits attached to dividends)

**Maori authority debit** is a debit referred to in [section MA 6\(8\)](#) (Debits)

**maximum deficit debit** is defined in [section MC 33](#) (Meaning of maximum deficit debit) for the purposes of [section MC 20](#) (FDWPA breach of FDWP ratio by PCA company)

**memorandum account** means an account listed in [section MA 2\(1\)](#)

**on-market cancellation** *amended by adding:*

and includes an acquisition of the company's shares on the recognised exchange that is undertaken by an associated person under an arrangement for the associate to acquire the shares in lieu of the company

**policyholder credit** is a credit referred to in [section MA 5\(7\)](#) (Credits)

**policyholder debit** is a debit referred to in [section MA 6\(7\)](#) (Debits)

**policyholder FDWP ratio** is defined in [section MC 34](#) (Meaning of policyholder FDWP ratio)

**pre-imputation income year** means an income year that started before the 1987-88 income year

**reduced deficit debit** is defined in [section MC 35](#) (Meaning of reduced deficit debit) for the purposes of [section MC 20](#) (FDWPA breach of FDWP ratio by PCA company)

**shareholder FDWP ratio** is defined in [section MC 36](#) (Meaning of shareholder FDWP ratio)

**ultimate owner** of a company means a person—

- (a) who has an ownership interest in the company calculated under [section FG 2](#) (Entities to which interest deduction rules potentially apply); and
- (b) in whom no ownership interest, as calculated under [section FG 2](#), is held by a person who holds an ownership interest in the company of 50% or more

**Definitions omitted from section OB 1:**

base ratio

benchmark dividend imputation ratio

imputation year

supplementary available subscribed capital account

## *Consequential amendments to other Parts*

### **CD 5 When is a transfer caused by a shareholding relationship? *Add***

#### *Relationship with sections DV 14 and HF 1*

- (5) For the purposes of [subsections \(3\)\(b\) and \(4\)\(b\)](#), [section HF 1](#) (Profits of mutual associations in respect of transactions with members) is not overridden by [section DV 14](#) (Statutory producer boards and co-operative companies).

### **DV 14 Statutory producer boards and co-operative companies**

#### *When this section applies*

- (1) This section applies for the purposes of [sections MB 66 and MB 71](#) (which relate to imputation credits attached to cash distributions by statutory producer boards and co-operative companies) when a producer board or co-operative company chooses to treat a distribution as a dividend.

#### *No deduction*

- (2) The producer board or co-operative company making the distribution is denied a deduction for the amount of the distribution.

#### *Link with subpart DA*

- (3) This section overrides the general permission.

Defined in this Act: amount, co-operative company, deduction, general permission, imputation credit, statutory producer board

Origin: 2004 No 35 ss ME 30, ME 36

### **MB 9B When company leaves wholly-owned group**

#### *Election*

- (1) A company that is eligible to choose under [section MB 64](#) (Additional income tax on leaving wholly-owned group) to be liable for additional income tax upon leaving a wholly-owned group of companies may choose the person who is to be treated as having paid provisional tax or income tax.

#### *Amount*

- (2) The election in [subsection \(1\)](#) may be made for an amount determined under [section MB 64\(5\)](#).

***Tax paid***

- (3) The company may choose that the amount referred to in [subsection \(2\)](#) is treated as a payment of provisional tax or income tax by a company in the wholly-owned group of which the company is no longer part.

***Effect on the company***

- (4) When an election is made under this section, the amount referred to in [subsection \(3\)](#), ceases to be treated as a payment of provisional tax or income tax by the company.

***Form of election***

- (5) An election under this section must follow the form of an election under [section MB 13\(4\)](#) (ICA debit balance on leaving wholly-owned group).

Defined in this Act: amount, company, income tax, pay, provisional tax, wholly-owned group

Origin: 2004 No 35 s ME 9B(4), (5)



# Tax Administration Act 1994

## 3 Interpretation

**tax position**, *amend para (j) to include memorandum account*

## 22 Keeping of business records

*Amend subsection (2)(k) and (ka) to refer to memorandum account, and simplify*

## 104A Determination of credits and debits in memorandum accounts

(1) In this section,—

**memorandum account person** means a company, person, consolidated imputation group, or consolidated group (including the nominated company for a consolidated group) that maintains a memorandum account

**memorandum credit** means a credit that arises in a memorandum account

**credit date** means the credit date recorded when a memorandum credit arises in a memorandum account

**debit date** means the debit date recorded when a memorandum debit arises in a memorandum account

**memorandum debit** means a debit that arises in a memorandum account.

(2) The Commissioner may determine that a memorandum account is corrected by—

(a) adding, deleting, or changing a memorandum credit or a memorandum debit recorded in the account; or

(b) changing a credit date or a debit date recorded in the account.

(3) Notice of the determination must be given to the memorandum account person affected by the determination as soon as is convenient after the determination has been made.

(4) Notice of the determination may be included in a notice of assessment.

(5) Failure to give the notice of determination does not invalidate the determination.

(6) Particulars of the determination are treated as correctly reflecting what should have been recorded in the memorandum accounts.

(7) The memorandum account person must record those changes that are necessary or appropriate to ensure that all memorandum accounts of the person correctly reflect the determination.

- (8) **Subsections (6) and (7)** do not apply to the extent to which it is established in proceedings under a challenge that the determination is not correct.

(Origin: 2004 No 35 ss ME 20, ME 40, MF 6, MG 12, MI 12, MJ 8, MK 9)