

Subpart MD—Conduit tax relief accounts

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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>How to use this table</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>How to use this table</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