

NA—General collection rules

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Introductory provisions

NA 1 What this Part does

This Part provides the rules to require persons to pay to the Commissioner interim and terminal payments of tax and other amounts payable under the Inland Revenue Acts. The Part provides for—

- (a) a person's general withholding and payment obligations; and
- (b) the payment of terminal tax (subpart NB); and
- (c) the payment of provisional tax (subpart NC); and
- (d) the payment of the following employment-related taxes (subpart ND):
 - (i) PAYE;
 - (ii) FBT;
 - (iii) ESCT; and
- (e) the payment of tax on resident passive income (subpart NE); and
- (f) the payment of tax on non-resident passive income (subpart NF); and
- (g) payments for foreign dividends (subpart NG); and
- (h) the treatment of refunds by the Commissioner (subpart NM); and
- (i) the use of intermediaries in the tax system (subpart NP).

Defined in this Act: amount, Commissioner, employer's superannuation contribution, FBT, foreign dividend, non-resident passive income, PAYE, provisional tax, resident passive income, terminal tax

Origin: new

NA 2 Amounts treated as income tax

The provisions of this Act and the Tax Administration Act 1994 apply in relation to an amount that a person is liable to pay under this Part as if the amount were income tax imposed under section BB 1 (Imposition of income tax).

Defined in this Act: amount, income tax, this Act

Origin: 2004 No 35 ss MB 12, NC 2(1), ND 1W(2), NE 7(2), NF 13, NG 17(2), NH 3(7)

Payment and withholding obligations

NA 3 Terminal tax obligations

A person liable under section BC 9 (Satisfaction of income tax liability) to pay an amount of terminal tax for a tax year must pay the amount to the Commissioner under subpart NB (Terminal tax) by the due date.

Defined in this Act: amount, tax year, terminal tax

Origin: 2004 No 35 ss BC 9, MC 1

NA 4 Provisional tax obligations

A person liable to pay provisional tax must pay instalments on account of their income tax liability for a tax year to the Commissioner under subpart NC (Provisional tax) by the due dates.

Defined in this Act: Commissioner, income tax liability, provisional tax

Origin: 2004 No 35 ss BB 2(3), MB 4

NA 5 Tax obligations for employment-related taxes

A person who makes a payment or provides a benefit of 1 of the following kinds must either withhold and pay or pay the amount of tax for the payment or benefit to the Commissioner under subpart ND (Employment-related taxes) by the due dates:

- (a) a PAYE payment:
- (b) a fringe benefit:
- (c) an employer's superannuation contribution.

Defined in this Act: amount of tax, Commissioner, employer's superannuation contribution, fringe benefit, PAYE payment

Origin: 2004 No 35 ss BE 1(1)-(3), NC 15

NA 6 Withholding and payment obligations for passive income

Resident passive income

- (1) A person who makes a payment of resident passive income must withhold and pay an amount of tax for the payment to the Commissioner under subpart NE (Tax on resident passive income) by the due dates.

Non-resident passive income

- (2) A person who makes a payment of non-resident passive income must withhold and pay an amount of tax for the payment to the Commissioner under subpart NF (Tax on non-resident passive income) by the due dates.

Foreign dividends

- (3) A company that receives a foreign dividend must make a payment for the dividend to the Commissioner under subpart NG (Payments for foreign dividends) by the due date.

Defined in this Act: amount of tax, Commissioner, foreign dividend, non-resident passive income, resident passive income

Origin: 2004 No 35 ss BE 1(4)-(6), NF 4, NG 11, NH 3

NA 7 Payment of tax by public authorities

A public authority that pays an amount under this Act acts within its capacity, whether further appropriation is made or not.

Defined in this Act: amount, public authority, this Act

Origin: 2004 No 35 s MH 1

NA 8 Liability of persons receiving payments or benefits

Despite sections NA 5 and NA 6, a person receiving or deriving a payment or benefit in relation to which an amount of tax must be withheld or paid may be liable under this Part for payment of the tax.

Defined in this Act: amount of tax

Origin: 2004 No 35 ss NC 16, NE 2A, NF 3, NG 12

NA 9 Treatment of amounts withheld as received

An amount withheld from a payment under this Part, unless a provision in this Part states otherwise,—

- (a) is treated as received at the time of payment by the person to whom the payment is made; and
- (b) is treated for the purposes of this Act as derived by the person at the same time and in the same way as they derive the payment from which the amount is withheld; and
- (c) includes a combined tax and earner-related payment.

Defined in this Act: amount, combined tax and earner-related payment, this Act

Origin: 2004 No 35 ss NC 19, NE 6, NF 12, NG 15

NA 10 When obligations not met

When this section applies

- (1) This section applies when—
 - (a) a person liable to withhold an amount of tax for a PAYE payment, an employer's superannuation contribution, a payment of resident passive income, or a payment of non-resident passive income, does not withhold and pay the amount to the Commissioner; or
 - (b) a person liable to pay an amount of tax to the Commissioner for a fringe benefit does not pay the amount; or
 - (c) a person liable to make a payment for a foreign dividend does not pay the amount to the Commissioner.

Debt payable to Commissioner

- (2) The amount is a debt payable to the Commissioner.

When payable

- (3) The amount is due to be paid to the Commissioner on the relevant due date after the end date for the original liability set out in section NA 15.

Premiums and levies

- (4) The amount includes a combined tax and earner-related payment.

Defined in this Act: amount of tax, Commissioner, combined tax and earner-related payment, employer's superannuation contribution, foreign dividend, fringe benefit, non-resident passive income, PAYE payment, resident passive income

Origin: 2004 No 35 ss NC 5(2), NC 16, NC 20(1), ND 1, ND 1W(2), NE 5, NF 3, NF 4, NF 13, NG 12, NG 13

NA 11 Adjustment to correct errors: certain underpayments

When this section applies

- (1) This section applies when—
 - (a) a person (**payer**) is required to withhold and pay to the Commissioner an amount of tax for—
 - (i) a payment of resident passive income that is a payment of interest or a dividend having the nature of interest to another person (**payee**); or
 - (ii) a payment of non-resident passive income to the payee; and
 - (b) the payer, through an error, does not withhold some or all of the amount.

Amount withheld from later payment or recovered

- (2) The payer may—
 - (a) subtract from a later payment to the payee an amount to correct the deficiency; or
 - (b) recover from the payee an amount to correct the deficiency.

Requirements when withholding from later payment

- (3) For the purposes of subsection (2)(a),—
 - (a) the later payment must be a payment of interest, a dividend having the nature of interest, or a payment of non-resident passive income, as applicable; and
 - (b) the payment must be made in the same tax year in which the first payment is made.

Defined in this Act: amount of tax, Commissioner, dividend having the nature of interest, interest, non-resident passive income, resident passive income, tax year

Origin: 2004 No 35 ss NF 6(1), NG 16A(1)

NA 12 Adjustment to correct errors: certain excess amounts

When this section applies

- (1) This section applies when a person (**payer**) is required to withhold and pay to the Commissioner an amount of tax for a payment of resident passive income or non-resident passive income to another person (**payee**) and through an error, they withhold an amount (**excess amount**) that is more than the amount required under this Part.

Refunding excess amount of resident passive income

- (2) For a payment of resident passive income, the payer may pay the excess amount to the payee at any time before the end of the tax year in which the amount of tax is withheld if,—
- (a) for a payment of interest or a dividend having the nature of interest, an RWT withholding certificate relating to the amount has either not been sent out or has been returned and cancelled:
 - (b) for a payment of a dividend other than a dividend having the nature of interest, a shareholder dividend statement relating to the amount has either not been sent out for the purposes of section 29 of the Tax Administration Act 1994 or has been returned and cancelled:
 - (c) for a taxable Maori authority distribution, a notice relating to the amount has either not been given to a member of the Maori authority under section 31 of the Tax Administration Act 1994 or has been returned and cancelled.

Treatment of amount

- (3) For the purposes of this section, when the payer pays the excess amount under subsection (2), the amount is no longer treated as an amount of tax for resident passive income.

Amendments to notices

- (4) If the RWT withholding certificate, shareholder dividend statement, or notice referred to in subsection (2)(c) has been returned or cancelled, the payer must provide the payee with an amended certificate, statement, or notice, as applicable.

Commissioner refunding overpayment

- (5) If the excess amount has been paid to the Commissioner, the Commissioner must refund the amount of the overpayment to—
- (a) the payee; or
 - (b) the payer, if they have not subtracted the amount under subsection (6)(a) from a later payment made in relation to the payee.

Payer's options

- (6) For the purposes of subsection (5), if the excess amount has been refunded to the payee, the payer may—
- (a) subtract the amount from an amount paid later to the Commissioner under section NE 21 or NF 13 (which relate to resident passive income and non-resident passive income), noting the action in the statement required under section 50 of the Tax Administration Act 1994; or
 - (b) apply for a refund of the amount under section NM 8 (Overpaid tax for resident passive income or non-resident passive income).

Overpayment through payee's act or omission

- (7) Despite subsections (2) and (5), if the excess amount arises from an act or omission by the payee, the payer must pay the full amount withheld to the Commissioner and is not liable to repay the excess amount to the payee or another person.

Defined in this Act: amount of tax, Commissioner, dividend having the nature of interest, interest, non-resident passive income, notice, resident passive income, shareholder dividend statement, tax year, taxable Maori authority distribution

Origin: 2004 No 35 ss NF 6(2)-(4), NF 7(1), (2), NG 16A(2), (3)

Payment dates

NA 13 Payment dates for terminal tax

When payment due

- (1) A person must pay their terminal tax for a tax year by—
- (a) the 7th day of the month in schedule 13, part A, column G or H (Dates for payment of provisional tax and terminal tax) for the person's corresponding income year; and
 - (b) the 15th day of January, if December is the month in schedule 13, part A, column G or H, for the person's corresponding income year.

Columns G and H

- (2) For the purposes of subsection (1), the month in schedule 13, part A, column G or H, for the person's corresponding income year is—
- (a) the month in column H, if—
 - (i) the person's return of income for the income year was linked to a tax agent; or
 - (ii) the person has asked for an income statement under section 80C of the Tax Administration Act 1994 or has been sent an income statement under section 80D of that Act, and the Commissioner has been notified that a tax agent will respond to the income statement sent to the person; or
 - (b) the month in column G in any other case.

Defined in this Act: Commissioner, corresponding income year, income statement, provisional tax, return of income, tax agent, tax year, terminal tax

Origin: 2004 No 35 s MC 1

NA 14 Payment dates for provisional tax

A person must pay their provisional tax for a tax year under section NC 9 (Provisional tax payable in instalments) according to the relevant cycle of instalments set out in schedule 13, part A, columns A to F (Dates for payment of provisional tax and terminal tax).

Defined in this Act: provisional tax, tax year

Origin: 2004 No 35 s MB 5A

NA 15 Payment dates for interim and other tax payments

When this section applies

- (1) This section applies when a person is required—
- (a) to withhold under section NA 5 an amount of tax for a payment and pay it to the Commissioner; or
 - (b) to withhold and pay, or pay under section NA 6 an amount to the Commissioner for a payment received or benefit provided by them.

When payment due

- (2) The person must pay the amount to the Commissioner by the following dates:
- (a) when the period for which the payment is made is shorter than a month, by the 5th day after the relevant end date;
 - (b) when the period for which the payment is made is a month or a period that is longer than a month, by the 20th day after the relevant end date;
 - (c) when the period for which the payment is made is a tax year or income year or both, or the last quarter of a year, by 31 May;
 - (d) for a close company that pays FBT on a tax year basis, by terminal tax date.

Relevant end dates

- (3) In this section, an **end date** means 1 of the following, as applicable:
- (a) for PAYE and ESCT payable for 2 payment periods in a month under section ND 4(1)(b) or ND 66(3) (which set out the basis for payment of PAYE and ESCT),—
 - (i) for the first payment period, the 15th day of the month; and
 - (ii) for the second payment period, the last day of the month:

- (b) for PAYE, RWT, and NRWT payable monthly under section ND 4(1)(a), NE 21(2) and (7), or NF 13(3) (which set out the basis for payment of PAYE, RWT and NRWT), as applicable, the last day of a month:
- (c) for FBT and FDP payable quarterly under sections ND 59 to ND 62 or NG 3 (which set out the basis for payment of FBT and FDP), as applicable, the last day of a quarter; and
- (d) for RWT and NRWT payable by instalment under section NE 21(3) or NF 13(2) (which set out the basis for payment of RWT and NRWT)—
 - (i) for the first instalment, the last day of September; and
 - (ii) for the second instalment, the last day of March.

When payment due in December

- (4) Despite subsection (2), for the purposes of this section and the payment of PAYE and ESCT to the Commissioner, if the month is December, the payment is due by 15 January.

Discrepancies

- (5) Subsection (6)—
 - (a) applies when a discrepancy arises in the information that a person is required to provide under—
 - (i) for resident passive income, section 51(1), (4), or (5) of the Tax Administration Act 1994:
 - (ii) for non-resident passive income, section 49(1) or (2) of that Act:
 - (b) does not apply to an unpaid amount that the Commissioner assesses for a particular return period.

Payment dates

- (6) If an amount of tax for resident passive income or non-resident passive income remains unpaid, the person required to withhold the amount must pay it to the Commissioner no later than—
 - (a) 20 April after the end of the tax year in relation to information provided under section 49(1) or 51(1) of the Tax Administration Act 1994:
 - (b) the last date for providing the information, in relation to information provided under section 49(2) or 51(4) or (5) of that Act.

Non-resident passive income

- (7) The Commissioner may extend the time for payment of an amount of tax for non-resident passive income.

Defined in this Act: amount of tax, close company, Commissioner, ESCT, FBT, FDP, income year, non-resident passive income, NRWT, PAYE, quarter, resident passive income, RWT, tax year, terminal tax

NA 16 Payment date when taxable activity ends

When this section applies

- (1) This section applies for a month when a registered person is required to withhold and pay under section NA 6 an amount of tax for a payment of resident passive income or non-resident passive income and the person—
 - (a) stops carrying on a taxable activity; or
 - (b) no longer carries on a taxable activity in New Zealand.

Payment to Commissioner

- (2) The person must pay to the Commissioner by the 20th day of the next month the total amount of tax for all payments relating to the taxable activity to the extent to which an amount of tax remains unpaid.

Exemption continuing

- (3) This section does not apply for resident passive income if the person continues to hold a certificate of exemption.

Defined in this Act: amount of tax, certificate of exemption, Commissioner, non-resident passive income, registered person, resident passive income, taxable activity

Origin: 2004 No 35 ss NF 4(5), NG 11(4)

NA 17 Payment date when certificate of exemption expires

When this section applies

- (1) This section applies in relation to a month of a tax year when a certificate of exemption of a person expires.

Payment to Commissioner

- (2) The person must pay to the Commissioner by the 20th day of the next month after the certificate of exemption expires the total amount of tax withheld by them to the extent to which the amount remains unpaid.

Exclusion

- (3) This section does not apply if the person continues to be required to withhold an amount of tax for resident passive income through the carrying on of a taxable activity.

Defined in this Act: amount of tax, certificate of exemption, Commissioner, resident passive income, tax year, taxable activity

Origin: 2004 No 35 s NF 4(6)

NA 18 Payment date for emigrating companies

When this section applies

- (1) This section applies to an emigrating company that is treated under section FCB 2 (Emigrating company treated as paying distribution to shareholders) as paying a distribution to a shareholder.

Payment

- (2) On or before the date that is 3 months after the emigration date, the company must pay to the Commissioner all amounts of tax for resident passive income or non-resident passive income withheld in relation to the distribution.

Defined in this Act: amount of tax, Commissioner, distribution, emigrating company, non-resident passive income, pay, resident passive income, shareholder

Origin: 2004 No 35 ss NF 4(6B), NG 11(4B)

Refunds

NA 19 Refunds of excess amounts or when amounts mistakenly paid

When this section applies

- (1) This section applies for a person (**payer**) and the withholding of an amount of tax that is more than the amount required under this Part (**excess amount**) or an amount mistakenly paid, when—
 - (a) the payer withholds and pays to the Commissioner an excess amount for the following payments:
 - (i) a payment of resident passive income:
 - (ii) a payment of non-resident passive income:
 - (b) the payer makes a payment for a foreign dividend of an excess amount:
 - (c) a PAYE intermediary pays an amount of tax for an employer through an error, or when the payment is not funded by the employer, as described in section NM 7 (Refunds to PAYE intermediaries):
 - (d) the result of a calculation for FBT made by an employer under sections ND 51 to ND 54 (which relate to attributed benefits and non-attributed benefits) is negative.

Refunds

- (2) The Commissioner must refund the excess amount to the payer.

Defined in this Act: amount of tax, Commissioner, employer, FBT, foreign dividend, non-resident passive income, PAYE intermediary, resident passive income

Origin: 2004 No 35 ss NBA 7, ND 10(4)(a), NF 7, NG 16, NH 4

Amalgamations

NA 20 Amalgamation of companies

If an amalgamating company ends its existence on a qualifying amalgamation, an unsatisfied obligation that the amalgamating company has at the time of the amalgamation to withhold and pay an amount of tax to the Commissioner under this Part is treated as an obligation of the amalgamated company.

Defined in this Act: amalgamated company, amalgamating company, amount of tax, Commissioner, qualifying amalgamation

Origin: 2004 No 35 ss NC 15(7), ND 13(8), ND 14(8), NH 4(8)

Regulations

NA 21 Regulations

When this section applies

- (1) This section applies for the purposes of the PAYE rules and the FBT rules.

PAYE payments

- (2) The Governor-General may make regulations by Order in Council to—
- (a) declare a particular payment, or particular class of payments, to be included in, or excluded from, the definition of—
 - (i) salary or wages; or
 - (ii) extra pay; or
 - (iii) schedular payment:
 - (b) provide further rules in relation to schedular payments as set out in subsection (3):
 - (c) provide that the regulations do not apply to a particular person, or class or persons, on notification from the Commissioner.

Schedular payments

- (3) For the purposes of subsection (1)(b), regulations may be made under this Act or the Tax Administration Act 1994 in relation to schedular payments for the following purposes:
- (a) to set the amount of tax for a particular schedular payment or particular class of schedular payment:
 - (b) to provide that the Commissioner may, if a person asks, set the amount of tax or rate of tax for a schedular payment to the person:
 - (c) to provide that the amount of tax for a particular schedular payment, class of schedular payment, or schedular payments under a particular threshold is the person's income tax liability in relation to the relevant kind of income:
 - (d) to provide that an amount of tax must be withheld and paid despite any assignment or charge.

Employment-related loans

- (4) The Governor-General may make regulations by Order in Council to declare the rate of interest applying to employment-related loans.

Application to quarters

- (5) When regulations referred to in subsection (4) are made, they apply to quarters starting from a date at least 1 month after the date the regulations were made. Regulations that reduce the rate of interest from the prescribed rate of interest at the time, if made at least 1 month before the quarter ends, may apply for that quarter.

Defined in this Act: amount of tax, employment-related loan, extra pay, FBT rules, income tax liability, interest, notify, PAYE rules, quarter, salary or wages, schedular payment

Origin: 2004 No 35 ss NC 21, ND 1F

Application of other provisions

NA 22 Limits on application of other provisions for purposes of PAYE rules

When section NA 2 does not apply

- (1) Section NA 2 does not apply—
- (a) to an amount of earner premium payable under section 115 of the Accident Rehabilitation and Compensation Insurance Act 1992 or section 285 of the Accident Insurance Act 1998:
 - (b) to an amount of earner's levy payable under section 221 of the Injury Prevention, Rehabilitation, and Compensation Act 2001:

- (c) for the purposes of sections 120KB to 120KE of the Tax Administration Act 1994.

Combined tax and earner-related payments

- (2) Sections 156 to 165 and 211 of the Tax Administration Act 1994 apply in relation to a combined tax and earner-related payment as if the payment were income tax.

Amounts not separated

- (3) For an amount of tax not withheld and paid to the Commissioner, the provisions listed in subsection (4) do not require—
 - (a) the separate identification of the amounts of a combined tax and earner-related payment that are attributable to—
 - (i) an amount of tax for a PAYE payment that an employer or PAYE intermediary is required to make under the PAYE rules; or
 - (ii) an amount that an employer must subtract under the sections referred to in subsection (1)(a) and (b).
 - (b) the bringing of separate proceedings or separate treatment for the collection, recovery, or imposition of penalties in relation to an amount of a combined tax and earner-related payment.

Provisions

- (4) The sections referred to in subsection (3) are—
 - (a) sections 156 to 165, 143, and 143A of the Tax Administration Act 1994;
 - (b) section 115 of the Accident Rehabilitation and Compensation Insurance Act 1992;
 - (c) section 285 of the Accident Insurance Act 1998;
 - (d) section 221 of the Injury Prevention, Rehabilitation, and Compensation Act 2001.

Defined in this Act: amount, combined tax and earner-related payment, Commissioner, employer, PAYE intermediary, PAYE payment, PAYE rules

Origin: 2004 No 35 s NC 20

NA 23 Application of other provisions for purposes of ESCT rules and NRWT rules

References

- (1) For the purposes of the ESCT rules and the NRWT rules, section GC 18 (Agreements not to make tax deductions to be void) and sections 167 and 169 of the Tax Administration Act 1994 apply, modified as necessary, as if—
 - (a) a reference to an amount of tax withheld were a reference to an amount of tax for an employer's superannuation contribution or non-resident passive income, as applicable:
 - (b) a reference to an employer were a reference to a person required to withhold and pay an amount of tax for an employer's superannuation contribution or non-resident passive income, as applicable:
 - (c) a reference to the PAYE rules were a reference to the ESCT rules or the NRWT rules.

Exclusion

- (2) Sections 121 and 122 of the Tax Administration Act 1994 do not apply to an amount of tax for an employer's superannuation contribution.

Defined in this Act: amount of tax, employer, employer's superannuation contribution, ESCT rules, non-resident passive income, NTWT rules, PAYE rules

Origin: 2004 No 35 ss NE 7, NG 17(1)