Subpart NC–Provisional tax

Contents

Introductory provisions

Calculating provisional tax liability

Instalments of provisional tax

Requirements for using GST ratio

Transitional years

Introductory provisions

NC 1 What this subpart does

When this subpart applies

(1) Sections NC 3 to NC 35 apply, for the purposes of the provisional tax rules, to provide—

(a) when a person is required to pay provisional tax:

(b) a person's provisional tax liability for a tax year, and the methods for calculating the amount payable for the tax year:

(c) the number of instalments of provisional tax and the instalment dates for a corresponding income year:

(d) how the amount of an instalment of provisional tax is determined:

(e) the payment of provisional tax in a transitional year:

(f) the application of the rules relating to use of money interest in Part 7 of the Tax Administration Act 1994, and late payment penalties and shortfall penalties in Part 9 of that Act.

Instalment dates

(2) In this subpart, a reference to an instalment classified by the letters A to F is a reference to a date in the table in schedule 13, part A (Dates for payment of provisional tax and terminal tax) on which an instalment of provisional tax is payable for an income year corresponding to a tax year.

Defined in this Act: amount, corresponding income year, income tax, income year, instalment date, provisional tax, provisional tax rules, shortfall penalty, tax year, terminal tax, transitional year

Origin: 2004 No 35 s MB 1

NC 2 Provisional tax rules and their application

Meaning

(1) The **provisional tax rules** means—

(a) section LD 6 (Allowance for provisional tax paid by agent); and

(b) section LD 7 (Provisional tax to be credited against income tax liability); and

(c) this subpart; and

(d) sections 15N to 15S, 119, 120K to 120N, 120OE, 139B and 139C, 173P to 173R of the Tax Administration Act 1994.

Application

(2) The provisional tax rules apply to a person who is required or who chooses to pay provisional tax.

Defined in this Act: provisional tax, provisional tax rules

Origin: 2004 No 35 s OB 1 "provisional tax rules"

NC 3 Who is required to pay provisional tax?

Threshold or election

(1) A person who is liable to pay provisional tax for a tax year is—

(a) a person whose residual income tax for the tax year is more than $2,500; or

(b) a person who chooses under section NC 4 to pay provisional tax.

Exclusions

(2) Despite subsection (1), the following persons do not pay provisional tax:

(a) a company that does not have a fixed establishment in New Zealand and is not treated as resident in New Zealand:

(b) a person referred to in section 33A(1) of the Tax Administration Act 1994:

(c) a non-resident contractor who has not been given a certificate of exemption by the Commissioner for the tax year.

No obligation

(3) A person has no obligation to pay provisional tax for a tax year if their residual income tax for the preceding tax year is $2,500 or less.

Defined in this Act: company, fixed establishment, New Zealand, non-resident, non-resident contractor, provisional tax, resident in New Zealand, residual income tax, tax year

Origin: 2004 No 35 s MB 2

NC 4 Choosing to pay provisional tax

Election

(1) A person, when first providing a return of income for a tax year, may choose to pay provisional tax for the tax year if—

(a) they have paid provisional tax of more than $2,500 on or before—

(i) the date of instalment F for the corresponding income year; or

(ii) the final instalment date in a transitional year; and

(b) they have, on the day on which the first payment of provisional tax is made for the tax year, a reasonable expectation that they are liable to pay provisional tax for the tax year, other than by this election.

Exclusion

(2) This section does not apply to a person described in section NC 3(2).

Defined in this Act: corresponding income year, final instalment, instalment date, provisional tax, return of income, tax year, transitional year

Origin: 2004 No 35 s MB 3

Calculating provisional tax liability

NC 5 Methods for calculating provisional tax liability

Choice of method

(1) A person liable to pay provisional tax must calculate the amount payable for a tax year using 1 of the methods described in subsections (2) to (7).

Standard method: 5% uplift

(2) Under the standard method, the amount of provisional tax payable for the tax year is 105% of the person's residual income tax for the preceding tax year, determined under section NC 6. Subsection (3) overrides this subsection.

Standard method: 10% uplift

(3) Despite subsection (2), the amount of provisional tax payable for the tax year is 110% of the person's residual income tax for the tax year before the preceding tax year if—

(a) they are required to provide a return of income for the preceding tax year; and

(b) the return is not due on or before the date on which the first payment of provisional tax for the tax year is required through the application of section 37 of the Tax Administration Act 1994, or an extension granted under that section; and

(c) they have not provided the return on or before that date; and

(d) the date is not the date of instalment F for the corresponding income year.

Other methods: relationship with standard method

(4) Subsections (5) to (7) override subsections (2) and (3).

Estimation method

(5) The person may estimate their provisional tax liability for the tax year under section NC 7.

GST ratio method

(6) A person who is eligible under section NC 16 and not excluded by section NC 17 may choose to use a GST ratio under section NC 8 to determine their provisional tax liability for the tax year.

Commissioner's determination

(7) If the Commissioner determines a person's provisional tax liability under section 119 of the Tax Administration Act 1994, the amount or liability is that last determined by the Commissioner and notified to the person at least 30 days before the instalment date. The 30-day requirement does not apply in a case to which section 119(1)(d) of that Act applies (which relates to an estimate of residual income tax that is not fair and reasonable).

Life insurance business

(8) A person who carries on a business of providing life insurance and who is liable for income tax under the life insurance rules, must at the time they determine their provisional tax liability provide the Commissioner with details of the calculation of that liability. In particular, they must detail the extent to which the amount of provisional tax relates to the policyholder base.

Defined in this Act: amount, business, Commissioner, corresponding income year, GST ratio, income tax, instalment date, life insurance, life insurance rules, notify, policyholder base, provisional tax, qualifying event, residual income tax, return of income, tax year

Origin: 2004 No 35 s MB 4

NC 6 Standard method

When this section applies

(1) This section applies to a person liable to pay provisional tax for the purposes of section NC 5(2) and (3) and the calculation of the amount of provisional tax payable for a tax year under the standard method.

Assessment for preceding tax year

(2) The person's residual income tax for a tax year is based on their assessment for the preceding tax year unless the Commissioner has sent out a notice of assessment for the tax year at least 30 days before the relevant instalment date, in which case the amount of residual income tax is based on the Commissioner's assessment for the preceding tax year.

Commissioner's assessment for preceding tax year

(3) The person's residual income tax is based on the Commissioner's assessment for the preceding tax year, whenever the assessment is made, if—

(a) they are required under sections 33 and 37 of the Tax Administration Act 1994 to provide a return of income for the preceding tax year but have failed to do so by the relevant instalment date; or

(b) they are not required under sections 33 and 37 of that Act to provide a return by the relevant instalment date, and subsections (2) and (4) do not apply.

Residual income tax for preceding tax year

(4) The amount of provisional tax payable for a tax year is the amount of the person's residual income tax for the preceding tax year if—

(a) they are not required to provide a return of income for the preceding tax year; or

(b) their residual income tax for the tax year before the preceding tax year was $2,500 or less, and they were not required to provide, and have not provided, a return of income for the tax year by the date of instalment F for the corresponding income year.

Later increased assessment

(5) If the Commissioner's assessment of a person's income tax liability occurs after the payment date for an instalment of provisional tax and would result in an increase in the person's residual income tax for the preceding tax year, the residual income tax is treated for the purposes of the provisional tax rules as if it had not been increased.

Transitional years and consolidated groups

(6) A person's residual income tax in a transitional year is calculated under section NC 20. For consolidated groups, the calculation is made under section NC 29.

Defined in this Act: amount, assessment, Commissioner, consolidated group, corresponding income year, income tax liability, instalment date, notice, provisional tax, residual income tax, return of income, tax year, transitional year

Origin: 2004 No 35 s MB 5

NC 7 Estimation method

When this section applies

(1) This section applies to a person who is liable to pay provisional tax under section NC 5(5) and to the calculation of the amount of their provisional tax payable for a tax year under the estimation method.

Fair and reasonable estimate

(2) On or before an instalment date, the person may make a fair and reasonable estimate of their residual income tax for the tax year by informing the

Commissioner of the estimate. The amount of provisional tax payable for a tax year is the amount of the estimated residual income tax.

Revising estimates

(3) The person may choose to revise an estimate made under subsection (2) before an instalment date. The amount last estimated is the amount taken into account under section NC 5(5).

Reasonable care in making and maintaining assessment

(4) A person who makes an estimate under subsection (2) must take reasonable care in making it, and must revise the estimate for the tax year if, at some time in the tax year, the amount estimated is no longer fair and reasonable.

Estimation higher than provisional tax payable

(5) If a person's estimate is more than the provisional tax that is payable for the tax year, they are treated as having taken reasonable care in making the estimate.

Changing calculation method from GST ratio

(6) If, under section NC 18(5), a person changes they way they determine the amount of provisional tax after the date of an instalment, they must estimate their residual income tax for the corresponding income year, and must pay provisional tax on whichever of instalment dates B, D, and F for their income year occur after 30 days from their last ratio instalment date.

Disaster relief

(7) A person who is significantly affected by a self-assessed adverse event or qualifying event may make an estimate of their provisional tax under section NC 36, and that section overrides this section.

Defined in this Act: amount, Commissioner, corresponding income year, GST ratio, instalment date, provisional tax, qualifying event, ratio instalment date, residual income tax, self-assessed adverse event, tax year

Origin: 2004 No 35 s MB 6

NC 8 GST ratio method

Using GST ratio

(1) A person liable to pay provisional tax who meets the requirements of sections NC 16 and is not excluded by section NC 17 may choose to use a GST ratio to determine the amount of provisional tax payable for a tax year.

Meaning of GST ratio

(2) The person's **GST ratio** is the percentage figure that is obtained by dividing their residual income tax for the preceding tax year by their total taxable supplies for the corresponding income year. The amount of residual income tax and the amount of total taxable supplies are called **base amounts** for the purposes of this section.

When amounts based on tax year before preceding tax year

(3) If a base amount for the preceding tax year or corresponding income year is not known, the GST ratio is the percentage based on the assessment for the tax year and corresponding income year that are immediately before the preceding tax year and corresponding income year.

Commissioner's calculation

(4) The Commissioner must calculate a person's GST ratio, informing them by—

(a) including the percentage figure on the person's pre-printed GST return form; or

(b) advising them in writing or by telephone; or

(c) some other means.

Adjustment to GST ratio

(5) The Commissioner must adjust a person's GST ratio if a base amount is revised through, among other reasons,—

(a) an assessment or an amended assessment of the person's income tax return for the preceding tax year; or

(b) a change in the value of the total taxable supplies for the corresponding income year; or

(c) the disposal of an asset to which section NC 19 applies.

New GST ratio

(6) When subsection (5) applies, the Commissioner must inform the person of the new GST ratio. The new ratio applies in relation to the relevant instalment dates that occur 30 days after the date on which the person is informed.

Transitional years

(7) If a person has paid instalments of provisional tax in a transitional year, for the tax year that follows the transitional year, for the purposes of this section and section NC 11, they must—

(a) ignore the transitional year when determining their residual income tax or total taxable supplies; and

(b) base their determination of residual income tax and total taxable supplies on the tax year preceding the transitional year.

Total taxable supplies

(8) In subsections (2), (5), and (7), and in sections NC 11, NC 19, and NC 31, **total taxable supplies,** for a person and a period, means the amount that is the total value of taxable supplies by the person for the period. The amount includes the GST charged on the supplies.

Defined in this Act: amount, assessment, base amount, Commissioner, corresponding income year, GST, GST ratio, instalment date, provisional tax, residual income tax, tax year, taxable supply, total taxable supplies, transitional year

Origin: 2004 No 35 s MB 7

Instalments of provisional tax

NC 9 Provisional tax payable in instalments

General principle

(1) For a person liable to pay provisional tax using the standard and estimation methods, the amount of the provisional tax liability must be spread evenly over the applicable number of instalments, so that equal amounts are paid on each instalment date. If the full amount is not divisible into exactly equal instalments, the final instalment carries the difference.

Provisional tax payable in 3 instalments

(2) A person pays provisional tax in 3 instalments on the interest instalment dates for the tax year in the months set out in schedule 13, part A, columns B, D, and F (Dates for payment of provisional tax and terminal tax) for the person's corresponding income year. The amount of each instalment is calculated under section NC 10. Subsection (3) overrides this subsection.

Exclusions

(3) Subsection (2) does not apply—

- (a) to a person liable to pay provisional tax who—
  - (i) pays GST on a 6-monthly basis; or
  - (ii) uses a GST ratio to determine the amount of provisional tax payable, or who changes their calculation method under section NC 18(5); or
  - (iii) changes the cycle of their taxable periods under section 15C of the Goods and Services Tax Act 1985:
- (b) to a person with an initial provisional tax liability who—
  - (i) pays GST on a 6-monthly basis; or
  - (ii) pays GST on a monthly or 2-monthly basis, and starts a taxable activity after 30 days from the date of instalment B in their corresponding income year:
- (c) to a person liable to pay provisional tax who has not provided a return of income for the preceding tax year, and whose residual income tax for the tax year immediately before the preceding tax year was $2,500 or less:
- (d) in a transitional year.

Provisional tax when GST paid on 6-monthly basis

(4) A person liable to pay provisional tax who pays GST on a 6-monthly basis must pay provisional tax on the 2 interest instalment dates for the tax year in the months set out in schedule 13, part A, columns C and F for their corresponding income year. This subsection applies to a person with an initial provisional tax liability other than 1 who pays GST on a 6-monthly basis and starts a taxable activity within 30 days of the date of instalment C.

Provisional tax determined using GST ratio

(5) A person liable to pay provisional tax who uses a GST ratio to determine the amount of provisional tax payable for a tax year, must pay provisional tax on the 6 ratio instalment dates in the months set out in schedule 13, part A, columns A to F for their corresponding income year. The amount of each instalment is calculated under section NC 11.

Changing calculation method

(6) A person who is unable or decides not to use a GST ratio, changing their calculation method under section NC 18, must pay the provisional tax payable for the tax year on the relevant instalment dates under the replacement method. The amount of each instalment is calculated under section NC 7 or NC 10, as applicable.

Changing cycle of taxable periods

(7) A person who changes the cycle of their taxable periods under section 15C of the Goods and Services Tax Act 1985 must pay provisional tax for the tax year on the instalment dates specified in section NC 27 after the change in taxable period takes effect. The amount of each instalment is calculated under section NC 10.

Persons with initial provisional tax liability

(8) A person with an initial provisional tax liability who starts a taxable activity in a tax year in relation to which they pay GST must pay provisional tax for the tax year—

(a) in 3 instalments under subsection (2) if they start a taxable activity at some time in the period that starts at the beginning of the corresponding income year and ends 30 days before the date of instalment B:

(b) in 2 instalments—

(i) in a case to which section NC 13 applies; or

(ii) if they start a taxable activity at some time in the period that starts at the beginning of the corresponding income year and ends 30 days before the date of instalment C:

(c) in 1 instalment in a case to which section NC 14 applies.

Extension of time for return

(9) A person who has not provided a return of income for a preceding tax year and whose residual income tax for the tax year before the preceding tax year was

$2,500 or less must pay provisional tax for the tax year on the instalment dates set out in section NC 13 or NC 14, as applicable.

Transitional years

(10) In a transitional year, provisional tax is payable as set out in section NC 21 and schedule 13, part B (Months for payment under sections NC 9 and NC 22 to NC 25). The amount of each instalment is calculated under sections NC 22 to NC 24.

Voluntary payments

(11) A person liable to pay provisional tax may pay an instalment under section NC 12 at any time.

Defined in this Act: amount, corresponding income year, GST, GST ratio, income year, initial provisional tax liability, instalment date, interest instalment date, provisional tax, ratio instalment date, residual income tax, return of income, tax year, taxable activity, taxable period, transitional year

Origin: 2004 No 35 s MB 8

TABLE N1

Summary of instalment dates and calculation methods for provisional tax

Categories: ordinary	Variables	Method	Instalments	Instalment dates	Calculation	Interest, penalties
Standard NC 5(2), (3)		NC 6	3 — NC 9(2)	B, D, F	NC 10	120KE(1), (2)
Estimation NC 5(5)		NC 7	3 — NC 9(2)	B, D, F	NC 10	120KB
GST ratio NC 5(6)	1 month	NC 8	6 — NC 9(5)	A to F	NC 11	120KE(3), 139C
	2 month	NC 8	6 — NC 9(5)	A to F	NC 11(3)	120KE(3), 139C
GST 6-month NC 9(4)	standard	NC 6	2 — NC 9(4)	C and F	NC 11	120KE(1)
	estimation	NC 7	2 — NC 9(4)	C and F	NC 11	120KB
Categories: exceptional						
Persons with initial provisional tax liability		NC 6 or NC 7	NC 9(8), NC 13(3), NC 14(2)	D and F, or F as required	NC 10 (NC 13(4)), NC 10 (NC 14(3))	120KC
Transitional years		NC 20	NC 22 (NC 9(10))	B, D, F, as required	NC 22 - NC 24	120KC
Changing taxable period (or starting and stopping GST registration)		NC 27, 15C, 15E	NC 27 (NC 9(7))	B, D, F, or C, F as required	NC 26, NC 27	120KD
Changing calculation method		NC 18	NC 7(6), NC 9(6)	B, D, F, or C, F as required	NC 18	120KE (5) -(7)
Voluntary payments		NC 12				120E

Note: references in the last column are to sections of the Tax Administration Act 1994.

NC 10 Calculating amount of instalment under standard and estimation methods

When this section applies

(1) This section applies for the purposes of—

(a) section NC 5(2), (3), and (5) (which relates to the calculation of a provisional tax liability); and

(b) section NC 9(2) and (6) (which relates to payment of instalments); and

(c) sections NC 13 and NC 14 (which relate to persons with an initial provisional tax liability and those with an extension of time for providing a return); and

(d) sections NC 26 and NC 27 (which relate to changes in taxable periods).

Calculation

(2) The amount of an instalment of provisional tax is calculated using the formula—

$$\frac{\text{residual income tax} \times \text{instalment number}}{\text{total instalments}} - \text{provisional tax.}$$

Definition of items in formula

(3) In the formula,—

(a) **residual income tax** is a person's residual income tax, as applicable—

(i) for the preceding tax year, uplifted by 5%; or

(ii) for the tax year immediately before the preceding tax year, uplifted by 10%; or

(iii) the amount estimated by them:

(b) **instalment number** is the number of the instalment for the tax year, whether first, second, or third:

(c) **total instalments** is the total number of instalments for the tax year:

(d) **provisional tax** is the amount of a person's provisional tax liabilities for the tax year to date.

Instalment amounts after change in balance date or taxable period

(4) If a change occurs to the balance date or cycle of a person's taxable periods, the calculation of the amount of an instalment is made under this section, applying the updated figures to the items in the formula.

Defined in this Act: amount, balance date, initial provisional tax liability, provisional tax, residual income tax, return of income, tax year, taxable period

Origin: 2004 No 35 s MB 9

NC 11 Calculating amount of instalment using GST ratio

Calculation

(1) For a person who uses a GST ratio, the amount of provisional tax payable on an instalment date for a tax year is calculated using the formula—

$$\text{GST ratio for tax year} \quad \times \quad \text{total taxable supplies.}$$

Item in formula: total taxable supplies

(2) In the formula, **total taxable supplies** is the amount of the person's total taxable supplies in the taxable period that matches the instalment period.

Taxable supplies when person pays on monthly basis

(3) For the purposes of subsection (1), a person who pays GST on a 1-month cycle under section 15 of the Goods and Services Tax Act 1985 must apply the GST ratio to the sum of their taxable supplies in the current taxable period and the preceding taxable period, that is, the taxable supplies in the 2-month period matching the instalment period.

Defined in this Act: amount, GST, GST ratio, instalment date, provisional tax, tax year, taxable period, taxable supply

Origin: 2004 No 35 s MB 10

NC 12 Voluntary payments

A person who is liable to pay provisional tax may at any time make a voluntary payment of an amount of provisional tax that—

(a) relates to their income tax liability for a tax year in which they are not liable for provisional tax; or

(b) is more than the provisional tax payable by them for the tax year; or

(c) is more than the income tax payable by them for the tax year.

Defined in this Act: amount, income tax, income tax liability, provisional tax, tax year

Origin: 2004 No 35 s MB 12

NC 13 Paying 2 instalments for tax year

Who this section applies to

(1) This section applies for a tax year to—

(a) a person with an initial provisional tax liability whose first business day occurs in the period that starts 30 days before the date of instalment B and ends 30 days before the date of instalment D; or

(b) a person liable to pay provisional tax whose return of income for the preceding tax year is provided in the period that starts on the date of instalment B and ends on the date of instalment D if—

(i) they were required to provide a return for the preceding tax year but, under section 37 of the Tax Administration Act 1994 or an extension under that section, are not required to provide the return by the date of instalment B; and

(ii) their residual income tax for the tax year before the preceding tax year was $2,500 or less.

Exclusion

(2) Despite subsection (1), this section does not apply to a person liable to pay provisional tax who pays GST on a 6-monthly basis.

When instalments are payable

(3) For the purposes of section NC 9(8)(b), the instalments are payable on the date of instalments D and F for the person's corresponding income year.

Formula for amount of instalment

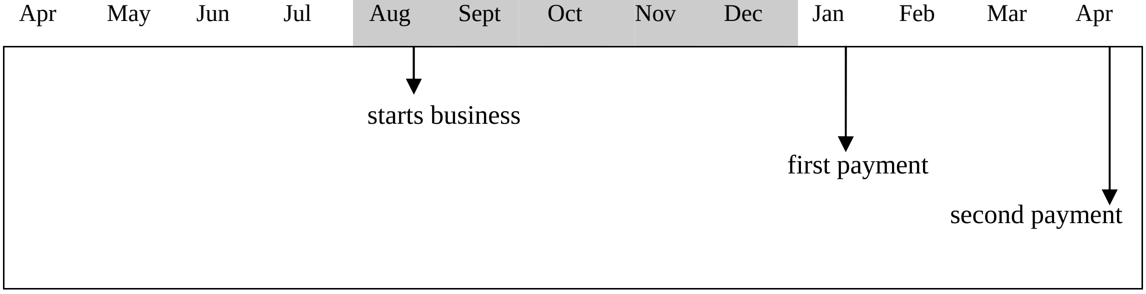
(4) The amount of each instalment is calculated under section NC 10.

Defined in this Act: amount, corresponding income year, first business day, GST, initial provisional tax liability, residual income tax, return of income, tax year

Origin: 2004 No 35 s MB 13

Reader's notes: example for section NC 13

Mr Red, who is not registered for GST, starts business on 20 August and has a March balance date. The first business day falls in the period that starts on 29 July (30 days before instalment B) and ends on 21 December (30 days before instalment D). Mr Red has 2 payments of provisional tax for the year, due on 20 January and 28 April.



NC 14 Paying 1 instalment for tax year

Who this section applies to

(1) This section applies for a tax year to—

(a) a person with an initial provisional tax liability whose first business day occurs in the period that starts 30 days before the date of instalment D and ends at the end of the corresponding income year; or

(b) a person liable to pay provisional tax whose return of income for the preceding tax year is not provided on or before the date of instalment D if—

(i) they were required to provide a return for the preceding tax year but, under section 37 of the Tax Administration Act 1994 or an extension under that section, are not required to provide the return by the date of instalment D; and

(ii) their residual income tax for the tax year before the preceding tax year was $2,500 or less:

(c) a person who pays GST on a 6-monthly basis if—

(i) their first business day occurs in the period that starts 30 days before the date of instalment C and ends at the end of the corresponding income year; or

(ii) they meet the requirements of paragraph (b)(i) and (ii) as if the reference to instalment D in paragraph (b)(i) were a reference to instalment C.

When instalment payable

(2) For the purposes of section NC 9(8)(c), the instalment is payable on the date of instalment F for the person's corresponding income year.

Amount of instalment

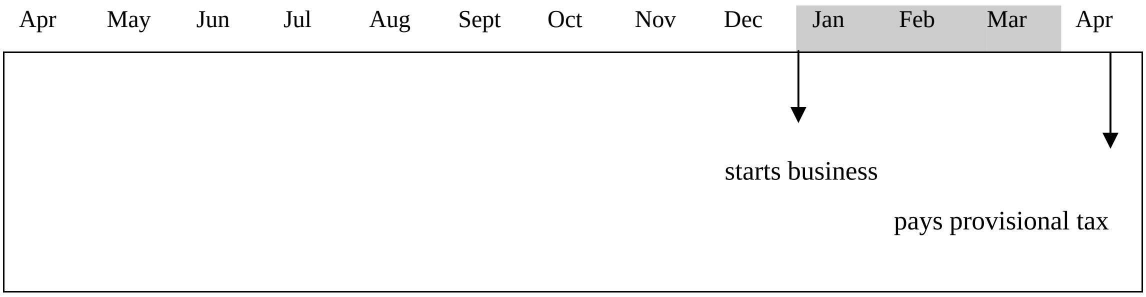
(3) The amount of the instalment is calculated under section NC 10.

Defined in this Act: amount, corresponding income year, first business day, GST, initial provisional tax liability, provisional tax, residual income tax, return of income, tax year

Origin: 2004 No 35 s MB 14

Reader's notes: example for section NC 14

Ms Orange, who is registered for GST on a 2-monthly basis, starts business on 1 January and has a March balance date. Ms Orange is ordinarily liable to pay provisional tax in 3 instalments aligned with her GST payment dates (s MB 8(2)). However, because her first business day falls in the period that starts on 21 December (30 days before instalment D) and ends on 31 March, Ms Orange has 1 payment of provisional tax for the year, due on 28 April.



Requirements for using GST ratio

NC 15 Choosing to use GST ratio

A person who meets the requirements of section NC 16(2) and (3) for a tax year may choose to use a GST ratio for the corresponding income year if they inform the Commissioner of their election before the start of the income year.

Defined in this Act: Commissioner, corresponding income year, GST ratio, tax year

Origin: 2004 No 35 s MB 16

NC 16 Who may use GST ratio?

General eligibility

(1) A person liable to pay provisional tax may choose to use a GST ratio to determine under section NC 5(6) the amount of provisional tax payable for a tax year only if they meet all the requirements in subsections (2) and (3) in relation to the same entity.

Requirements for preceding tax year

(2) For the purposes of determining their eligibility for a tax year, the person must meet the following requirements in the preceding tax year:

(a) their residual income tax, as calculated, was more than $2,500 but no more than $150,000; and

(b) they were a registered person for the whole tax year, and provided a return under the Goods and Services Tax Act 1985 for an entity whose taxable activity did not begin operations in that tax year; and

(c) the ratio of their residual income tax to total taxable supplies, as calculated under section NC 11 and expressed as a percentage, is between zero and 100%.

Requirement for current year

(3) For the tax year in which the person uses a GST ratio, they must be liable to file a return under the Goods and Services Tax Act 1985 for a 2-month or a 1-month period under section 15(1)(b) and (c) of that Act.

When election applies

(4) A person's election under section NC 15 to use a GST ratio applies for the tax year for which the election is made and in later tax years, unless the person changes their calculation method under section NC 18.

References to preceding tax year

(5) In this section, a reference to a preceding tax year includes a reference to the tax year immediately before the preceding tax year if that earlier tax year is used for the purposes of calculating a GST ratio.

Defined in this Act: amount, assessment, business, corresponding income year, GST ratio, provisional tax, registered person, residual income tax, tax year, taxable activity, taxable period, total taxable supplies

Origin: 2004 No 35 s MB 15(1)-(4), (11)

NC 17 When GST ratio must not be used

Requirement to discontinue use of GST ratio

(1) Despite section NC 16, a person must stop using a GST ratio for a tax year and must apply section NC 18(4) or (5) if—

(a) their GST registration ends under section 52 of the Goods and Services Tax Act 1985 in the tax year; or

(b) they no longer qualify under section NC 16(2) as a result of an amended assessment of their income tax liability or their GST liability for the preceding tax year; or

(c) they no longer qualify under section NC 16(3) as a result of a change in their taxable period.

Failure to provide GST returns

(2) A person must not use, or must stop using, a GST ratio for a tax year if they—

(a) are liable to provide a return under the Goods and Services Tax Act 1985 for a period in their corresponding income year; and

(b) fail to file the return within 60 days after the due date for filing the return.

Instalments following default

(3) A person who is required by subsection (2) to stop using a GST ratio must pay the provisional tax instalments required under section NC 18 for an instalment period beginning on or after the due date for filing the return referred to in subsection (2) that is not the subject of notification under subsection (4).

Further use of GST ratio

(4) Despite subsections (2) and (3), a person may use a GST ratio for an instalment period referred to in subsection (3) if—

(a) they apply to the Commissioner; and

(b) the Commissioner considers—

(i) the failure to file the return is caused by an event or circumstance beyond the person's control; and

(ii) the event or circumstance provides reasonable justification or excuse for the failure; and

(iii) the person remedied the failure as soon as practicable; and

(c) the Commissioner notifies the person that they may use the GST ratio for the instalment period.

Standard required

(5) For the purposes of subsection (4)(b), the Commissioner must use the same approach that would be used to justify the remission of a penalty under section 183A of the Tax Administration Act 1994.

Later default

(6) Notification under subsection (4) does not apply to an instalment period if—

(a) the person fails to file a return due after the date of the notice unless the failure is anticipated and referred to in the notice; and

(b) the instalment period begins on or after the due date of the return described in paragraph (a).

Defined in this Act: assessment, Commissioner, corresponding income year, GST ratio, income tax liability, instalment period, notify, provisional tax, tax year, taxable period

Origin: 2004 No 35 s MB 15(5)-(10)

NC 18 Changing calculation method

When this section applies

(1) This section applies if, after having chosen to use a GST ratio for a tax year, a person liable to pay provisional tax either—

(a) chooses another way to calculate the amount of provisional tax payable for the tax year; or

(b) is required under section NC 17(1) or (2) to stop using a GST ratio for the corresponding income year.

Informing Commissioner of decision to change

(2) The person must inform the Commissioner of their decision under subsection (1)(a), and may do this either in writing or by telephone. Subsection (3) or (4) then applies for the remaining instalments of provisional tax for the tax year.

Date on which use of GST ratio stopped

(3) For the purposes of subsection (1)(b), the date on which the person stops using a GST ratio is, as applicable,—

(a) the date their GST registration ends; or

(b) the date of the amended assessment of their income tax liability or GST liability for the preceding tax year; or

(c) the first day of a new taxable period for a change in taxable period; or

(d) the last day of the period in which a return is liable to be provided under the Goods and Services Tax Act 1985.

Changing method before date of instalment A

(4) If the person is unable or decides not to use a GST ratio before the date of instalment A, they may choose to determine the amount of provisional tax payable under section NC 5(2), (3) or (5), as if the election to use the GST ratio had not been made.

Changing method after instalment date

(5) If the person is unable or decides not to use the GST ratio after an instalment date, they must determine the amount of provisional tax payable on instalment for the remainder of the income year under section NC 5(5) using the estimation method. For this purpose, the person may provide the estimate in writing or by telephone.

Date of application when method changed

(6) If the person changes their calculation method under subsection (4) or (5), the date on which the change applies may be a future date agreed between the person and the Commissioner.

Other consequences of changing method

(7) For the purposes of this section,—

(a) the number of instalments and the instalment dates remaining for an income year depend on—

(i) the requirements of the method chosen by the person when they stop using the GST ratio; and

(ii) the cycle of taxable periods chosen by the person, being either a monthly or 2-monthly basis:

(b) a person may change from using a GST ratio to a 6-monthly cycle of taxable periods only if—

(i) the requirements in section 15C of the Goods and Services Tax Act 1985 are met; and

(ii) their 6-month taxable period is aligned with their balance date under section 15B of the Goods and Services Tax Act 1985:

(c) section 120KE(5) to (7) of the Tax Administration Act 1994 applies in deciding whether use of money interest is payable in relation to instalments under the new method.

Defined in this Act: amount, assessment, balance date, Commissioner, corresponding income year, GST ratio, income tax liability, instalment date, provisional tax, residual income tax, tax year, taxable period

Origin: 2004 No 35 s MB 17

NC 19 Disposal of assets

When this section applies

(1) This section applies if, as part of the taxable activity of an entity referred to in section NC 16(2) and (3), a person who is liable to pay provisional tax, disposes of an asset—

(a) that is not revenue account property; and

(b) the value of the supply of which is not less than the greater of—

(i) an amount equal to 5% of the total taxable supplies of the business for the previous 12 months; or

(ii) $1,000.

Adjustment to GST ratio for current and next income year

(2) The person may choose to take the disposal of the asset into account by adjusting their taxable supplies for the relevant taxable period and income year. The adjustment must be made to both—

(a) the amount of their total taxable supplies for the purposes of the formula in section NC 11(1), by subtracting an amount that equals the value of the supply of the asset (as determined under section 10 of the Goods and

Services Tax Act 1985) plus the GST on the supply from the amount of taxable supplies for the relevant income year or taxable period; and

(b) the base amount of the their total taxable supplies for the next income year, by subtracting the amount that equals the value of the supply of the asset and the GST on the supply referred to in paragraph (a) from total taxable supplies in working out the GST ratio under section NC 8(2).

Informing Commissioner

(3) For the purposes of subsection (2), the person must inform the Commissioner of both the disposal of the asset and the value of its supply, and may do this either in writing or by telephone.

Rounding percentages

(4) In the determination of the value of the supply of the asset under subsection (1)(b)(i), the amount must be rounded to a whole percentage number.

Defined in this Act: amount, base amount, business, Commissioner, GST ratio, income year, instalment date, revenue account property, taxable period, taxable supply, total taxable supplies

Origin: 2004 No 35 s MB 18

Transitional years

NC 20 Calculating residual income tax in transitional years

Calculation for transitional year

(1) This section applies for the purposes of section NC 5(2) and (3) and the calculation of a person's residual income tax for a tax year if—

(a) the preceding tax year is a transitional year:

(b) the tax year before the preceding tax year is a transitional year.

Amount increased or decreased

(2) The amount of residual income tax for the transitional year must be increased or decreased by the amount calculated under subsection (3) to reflect the amount that would apply in a 12-month period.

Formula

(3) The amount of residual income tax is calculated using the formula—

$$\frac{\text{residual income tax} \times \text{days in current tax year}}{\text{days in transitional year.}}$$

Definition of items in formula

(4) In the formula,—

(a) **residual income tax** is a person's residual income tax, as applicable—
 (i) for the preceding tax year, uplifted by 5%; or
 (ii) for the tax year immediately before the preceding tax year, uplifted by 10%; or
 (iii) the amount estimated by them:

(b) **days in current tax year** is the number of days in the current tax year:

(c) **days in transitional year** is the number of days in the person's transitional year.

Defined in this Act: amount, first business day, residual income tax, tax year, transitional year

Origin: 2004 No 35 s MB 19

NC 21 Paying provisional tax in transitional years

Total amount payable

(1) A person liable to pay provisional tax in a transitional year must pay the sum of all instalments of provisional tax payable for the transitional year, both interim instalments under subsection (2) and a final instalment under subsection (3).

When instalments payable

(2) The person must pay an instalment other than a final instalment on—

(a) the 28th day of the months set out in schedule 13, part B (Months for payment under sections NC 9 and NC 22 to NC 25) unless paragraph (b) applies:

(b) the 15th day of January, when the month set out in schedule 13, part A (Dates for payment of provisional tax and terminal tax) is December.

When final instalment payable

(3) The person must pay the final instalment on—

(a) the 28th day of the month following the final month in the transitional year; or

(b) the 15th day of January, when November is the final month.

Modifications to instalment dates

(4) For the purposes of subsection (2), provisional tax is not payable on—

(a) the date of instalment B, if section NC 13 would have applied; or

(b) the dates of instalments B and D, if section NC 14(1)(a) and (b) would have applied; or

(c) the dates of instalments B, D, and F, if the person liable to pay provisional tax is a person with an initial provisional tax liability whose first business day occurs within 30 days of the date of instalment F; or

(d) the date of instalment C, if section NC 14(1)(c) would have applied; or

(e) the dates of instalments C and F, if the person liable to pay provisional tax is a person with an initial provisional tax liability who pays GST on a 6-monthly basis whose first business day occurs after the day that is 30 days before the date of instalment F.

Counting months in transitional years

(5) In this section, and in sections NC 22 to NC 25, and in schedule 13, part B, the number of months in a transitional year is determined as follows:

(a) the first month in a person's transitional year is the first whole month in the transitional year:

(b) the final month in a person's transitional year is the month in which their new balance date under section 39 of the Tax Administration Act 1994 occurs:

(c) each month falling between the first and final months must be included in determining the length of the transitional year.

Defined in this Act: amount, final instalment, first business day, initial provisional tax liability, provisional tax, tax year, transitional year

Origin: 2004 No 35 s MB 20

NC 22 Calculating instalments in transitional years: standard method

When this section applies

(1) This section applies to a person liable to pay provisional tax using the standard method in relation to instalments of provisional tax payable in a transitional year under section NC 21.

Instalment other than final instalment

(2) For an instalment date other than the date of the final instalment, the person must pay an amount calculated using the formula—

$$\frac{\text{person's provisional tax} \times \text{instalments payable}}{\text{total instalments}} - \text{tax previously payable.}$$

Definition of items in formula

(3) In the formula in subsection (2),—

(a) **person's provisional tax** is the person's provisional tax liability under section NC 5(2) or (3):

(b) **instalments payable** is the number of instalments that the person has in the transitional year on or before the instalment date:

(c) **total instalments** is whichever of the following applies:

(i) 3, for a person who pays on instalment dates B, D, and F; or

(ii) 2, for a person who pays on instalment dates C and F:

(d) **tax previously payable** is the amount for the transitional year of the person's provisional tax payable before the instalment date.

Final instalment

(4) For the final instalment, the person must pay an amount calculated using the formula—

$$\frac{\text{person's provisional tax} \times \text{transitional year days}}{\text{preceding year days}} - \text{tax previously payable.}$$

Definition of items in formula

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

(a) **person's provisional tax** is the person's provisional tax liability under section NC 5(2) or (3):

(b) **transitional year days** is the number of days in the person's transitional year:

(c) **preceding year days** is the number of days in the person's preceding tax year:

(d) **tax previously payable** is the amount of provisional tax for a tax year calculated on the basis of the person's transitional year that is payable before the instalment date.

Defined in this Act: amount, instalment date, final instalment, provisional tax, tax year, transitional year

Origin: 2004 No 35 s MB 21

NC 23 Calculating instalments in transitional years: estimation method

When this section applies

(1) This section applies to a person liable to pay provisional tax using the estimation method in relation to instalments of provisional tax payable in a transitional year under section NC 21.

Instalment other than final instalment

(2) For an instalment date other than the date of the final instalment, the person must pay an amount calculated using the formula—

$$\frac{\text{tax estimate} \times \text{instalments payable}}{\text{transitional months}} - \text{tax previously payable.}$$

Definition of items in formula

(3) In the formula,—

(a) **tax estimate** is the person's provisional tax liability last estimated by the person under section NC 5(5):

(b) **instalments payable** is either—

(i) 4 multiplied by the number of instalments in the person's transitional year payable on or before the instalment date, for a person who pays on the equivalent of instalment dates B, D, and F; or

(ii) 6 multiplied by the number of instalments in the person's transitional year payable on or before the instalment date, for a person who pays on the equivalent of instalment dates C and F:

(c) **transitional months** is the number of months in the person's transitional year:

(d) **tax previously payable** is the amount of provisional tax for a tax year calculated on the basis of the person's transitional year that is payable before the instalment date.

Final instalment

(4) For the final instalment, the person must pay the amount calculated under section NC 5(5) less the amount of any instalment previously payable.

Defined in this Act: amount, final instalment, instalment date, provisional tax, transitional year

Origin: 2004 No 35 s MB 22

NC 24 Calculating instalments in transitional years: GST ratio method

What this section applies to

(1) This section applies to a person liable to pay provisional tax using a GST ratio in relation to instalments of provisional tax payable in a transitional year.

Adjustment if required

(2) For a period or part period before the start of the new income year, the person must apply the GST ratio under section NC 11 on whichever dates of instalments A to F for their corresponding income year occur in the transitional year.

Defined in this Act: GST ratio, income year, provisional tax, transitional year

Origin: 2004 No 35 s MB 23

NC 25 Consequences of change in balance date

Continuing frequency

(1) This section applies to a person liable to pay provisional tax who changes their balance date.

Continuing to use instalment dates to new balance date

(2) The person must continue to use the instalment dates that applied before the change in balance date was approved until the new balance date is reached.

How amounts determined

(3) Sections NC 20 to NC 24 and schedule 13, part B (Months for payment under sections NC 9 and NC 22 to NC 25) apply for the person's transitional year to determine the amount and payment date of the instalments.

Estimation method

(4) In a transitional year, if the person uses the estimation method, they must,—

(a) before the date on which the Commissioner notifies a change in balance date, estimate the residual income tax as if no change in balance date is or will be approved; and

(b) after the date on which the Commissioner notifies a change in balance date, re-estimate the residual income tax.

GST ratio method

(5) Subsection (6) applies if the person uses a GST ratio to determine the provisional tax payable for a tax year, and in changing their balance date, moves from—

(a) a set of instalment dates in even-numbered months to a set of instalment dates in odd-numbered months; or

(b) a set of instalment dates in odd-numbered months to a set of instalment dates in even-numbered months.

Adjustment to liability

(6) The person must adjust their provisional tax liability for the income year for the part-period of 1 month before the start of the new income year. The part-period is their final taxable period, and the instalment of provisional tax is payable 28 days after the end of that period.

Aligning taxable periods

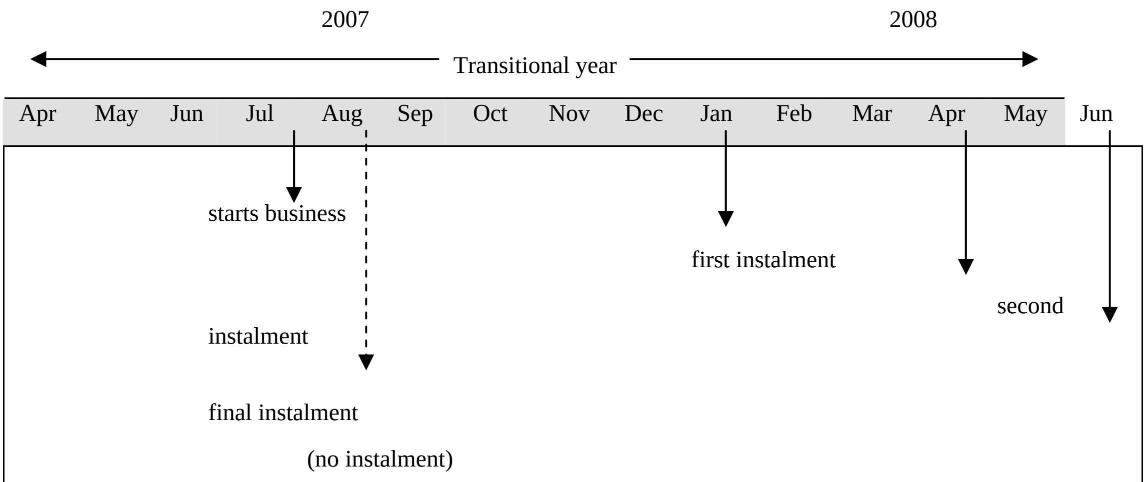
(7) For a registered person, if a change in balance date means that their taxable period is not aligned with the balance date, an adjustment must be made to their taxable period under section 15B(3) or 15C of the Goods and Services Tax Act 1985.

Defined in this Act: amount, balance date, Commissioner, GST ratio, income year, instalment date, notify, provisional tax, registered person, residual income tax, tax year, taxable period

Origin: 2004 No 35 s MB 24

Reader's notes: example for sections NC 20 to NC 24

Master Yellow, who has a March balance date, decides to change to a May balance date. The transitional year is 14 months long. He starts business with an initial provisional tax liability on 31 July, estimating provisional tax at $15,000 for the income year. At the end of the year, Master Yellow's residual income tax is $20,000.



Instalments in transitional year: 28th day of 5th, 9th, and 13th months after balance date, and final instalment on 28th day of month following final month in transitional year (s NC 24 and schedule 13, part B). But the first business day falls within 30 days of the date that would be the first instalment, 28 August (s NC 14), so no instalment is payable.

Amounts payable on the instalment dates are calculated under s NC 24.

First instalment payable on 15 January: $15,000 x 4/14 = $4,285

Second instalment payable on 28 April: $15,000 x 8/14 - $4,285 = $4,286

Final instalment payable on 28 June: $15,000 - $8,571 = $6,429

When persons start or stop paying GST, or change taxable periods

NC 26 Registering for GST or cancelling registration

When this section applies

(1) This section applies if a person who uses the standard or estimation method to determine the amount of provisional tax payable for a tax year—

(a) applies to the Commissioner to become a registered person under section 51 of the Goods and Services Tax Act 1985; or

(b) is treated as registered under section 51B of that Act; or

(c) asks the Commissioner to cancel their GST registration, or has their GST registration cancelled under section 52 of that Act.

Starting or ending GST registration: monthly or 2-monthly basis

(2) For a person liable to pay provisional tax who becomes registered for GST paying on a monthly or 2-monthly basis, or who cancels or has their GST registration cancelled having paid on that basis, the instalments of provisional tax payable by them for the tax year are unaffected.

Starting GST registration: 6-monthly basis

(3) A person liable to pay provisional tax who becomes registered for GST paying on a 6-monthly basis must pay their instalments of provisional tax on whichever dates of instalments C and F for their corresponding income year coincide with the cycle of their taxable periods after they become a registered person.

Ending GST registration: 6-monthly basis

(4) A person liable to pay provisional tax who pays GST on a 6-monthly basis and cancels their GST registration or has their registration cancelled, must pay their instalments of provisional tax on whichever dates of instalments B, D, and F for their corresponding income year occur after 30 days from the date of cancellation.

Date of cancellation

(5) For the purposes of subsection (4) and the provisional tax rules, the date of cancellation is the date on which the cancellation of GST registration is notified.

Formula for amount of instalment

(6) The amount of each instalment is calculated under section NC 10.

Defined in this Act: amount, corresponding income year, GST, provisional tax, registered person, tax year, taxable period

Origin: 2004 No 35 s MB 25

NC 27 Payment of provisional tax instalments when GST cycle changed

When subsection (2) applies

(1) Subsection (2) applies in a tax year to a person liable to pay provisional tax who—

(a) uses the standard or estimation method to determine the amount of provisional tax payable; and

(b) has been paying GST on a monthly or 2-monthly basis; and

(c) changes to a 6-monthly basis under section 15C(1) of the Goods and Services Tax Act 1985.

Changing to 6-monthly basis

(2) The person must pay their instalments of provisional tax on whichever dates of instalments C and F for their corresponding income year occur after the change in taxable period takes effect.

When subsection (4) applies

(3) Subsection (4) applies in a tax year to a person liable to pay provisional tax who—

(a) uses the standard or estimation method to determine the amount of provisional tax payable; and

(b) has been paying GST on a 6-monthly basis; and

(c) changes to a monthly or 2-monthly basis under section 15C(2) or (3) of the Goods and Services Tax Act 1985.

Changing to monthly or 2-monthly basis

(4) The person must pay their instalments of provisional tax on whichever dates of instalments B, D, and F for the person's corresponding income year occur after the change in taxable period takes effect.

Interest instalment dates in new cycle

(5) If an instalment of provisional tax that falls on an instalment date in the new cycle is payable in relation to a period in the person's original cycle that was, under that original cycle, an interest instalment date, it remains an interest instalment date in the new cycle. However, if the instalment falls on an instalment date other than an interest instalment date, the change does not affect the nature of the instalment.

Formula for amount of instalment

(6) The amount of each instalment is calculated under section NC 10.

Defined in this Act: amount, corresponding income year, GST, provisional tax, tax year, taxable period

Origin: 2004 No 35 s MB 27

Reader's notes: examples for sections NC 26 and NC 27 (using March balance dates)

Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr

1 Professor Green starts the income year registered for GST on a monthly basis, and on 10 June asks to change to a 6-monthly basis:

- the change takes effect on 30 September (s NC 28(2))
- provisional tax instalment payable on old cycle on 28 August
- payment of provisional tax instalment due on 28 April (s NC 29(2))

2 Ms Blue starts the income year registered for GST on a 6-monthly basis, and on 10 June asks to change to a monthly basis:

- the change takes effect on 30 September (s NC 28(2))
- provisional tax instalment payable on old cycle on 28 October
- payments of provisional tax instalments due on 15 January, 28 April (s NC 29(4))

3 Mr Indigo starts the income year registered for GST on a monthly basis, and on 20 October asks to change to a 6-monthly basis:

- the change takes effect on following 31 March
- provisional tax instalments paid on old cycle on 28 August, 15 January, 28 April

  (ss NC 28(2), NC 29(5))

4 Miss Violet starts the income year registered for GST on a 6-monthly basis, and on 10 June ends her GST registration:

- the change takes effect for provisional tax purposes on 10 June (s NC 26(5))
- provisional tax instalments due on 28 August, 15 January, 28 April (s NC 26(4))

Treatment of groups of companies and amalgamated companies

NC 28 Provisional tax rules and consolidated groups

Single company

(1) The provisional tax rules apply, modified as necessary, to a consolidated group of companies as if it were a single company.

Joint and several liability

(2) Each company in a consolidated group in a tax year is jointly and severally liable for the amount of provisional tax payable by the consolidated group to be credited against the income tax liability of the group for the tax year. The liability of a group company for income tax for the tax year is substituted by that joint and several liability to the extent to which the liability arises while the company is a member of the consolidated group.

Relationship with section HB 1

(3) Section HB 1(4) and (5) (Returns, assessments, and liability of consolidated group) overrides this section.

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

Origin: 2004 No 35 s MB 29

NC 29 Residual income tax of consolidated groups

When this section applies

(1) This section applies for the purposes of the provisional tax rules if a company is a member of a consolidated group of companies in a tax year but was not a member of the group for some or all of the preceding tax year.

Increased residual income tax

(2) The residual income tax of the consolidated group for the preceding tax year is treated as increased by an amount equal to the residual income tax of the company for the preceding tax year. If the company is part of the group for part of the current tax year, the amount of residual income tax is increased as a proportion on the basis of the part of the tax year during which the company is part of the group.

Instalments after company becomes member

(3) If the company is part of a group for part of the tax year, this section applies only to instalments of provisional tax payable after the date on which the company becomes part of the group.

Defined in this Act: amount, company, consolidated group, provisional tax, provisional tax rules, residual income tax, tax year

Origin: 2004 No 35 s MB 30

NC 30 Consolidated groups using estimation method

When subsection (2) applies

(1) Subsection (2) applies for the purposes of the provisional tax rules if a company is part of a consolidated group of companies for some or all of a tax year but is not part of the group for some or all of the following tax year.

Estimation before final instalment date

(2) The company must estimate its residual income tax on or before the date of instalment F for the following income year that corresponds to the tax year, and the company is treated as a person to which section NC 7 applies for the purposes of its estimate.

When company member of another consolidated group

(3) The consolidated group, in the case of a company that is part of another consolidated group, must make an estimate of residual income tax on or before the date of instalment F for the following income year that corresponds to the tax year, and the consolidated group is treated as a person to which section NC 7 applies for the purposes of its estimate.

When company no longer member

(4) If a company stops being part of the consolidated group in the following tax year, the company's estimate applies only to instalments of provisional tax payable after the date on which it stopped being part of the group.

Defined in this Act: company, consolidated group, corresponding income year, provisional tax rules, residual income tax, tax year

Origin: 2004 No 35 s MB 31

NC 31 Consolidated groups using GST ratio method

Sections NC 8, NC 9(5), NC 11, and NC 15 to NC 19 apply to a consolidated group of companies with the following modifications:

(a) if a consolidated group that is eligible to use, or is using, a GST ratio for a tax year is joined by a company, the following subparagraphs apply:

(i) if the company joins at the start of the tax year and, as a result, the threshold in section NC 16(2)(a) is exceeded, the group is no longer eligible to use a GST ratio:

(ii) if the company joins at the start of the tax year, and the group, allowing for the inclusion of the company, is eligible under section NC 16(1), the group may use a GST ratio, subject to the recalculation of the ratio under paragraph (c):

(iii) if the company joins at some time in the tax year, the group may continue to use a GST ratio for the tax year, as recalculated under paragraph (c), provided the requirements for eligibility other than the threshold in section NC 16(2)(a) are met:

(b) if a consolidated group that does not determine provisional tax payable for a tax year using a GST ratio, is joined by a company that is using a GST ratio for the tax year, the group may not start using a GST ratio for this purpose for the tax year:

(c) for the purposes of paragraph (a),—

(i) the group must recalculate the GST ratio applying for a tax year to include the residual income tax of the company for the preceding tax year and the total taxable supplies of the company for the corresponding income year, applying section NC 8(3) if required; and

(ii) the recalculated GST ratio applies to provisional tax payments made for the corresponding income year on or after the date on which the company joins the group:

(d) sections NC 17(3) and NC 18(4) or (5), as applicable, apply to a company that leaves a consolidated group at some time in a tax year.

Defined in this Act: consolidated group, corresponding income year, GST ratio, provisional tax, residual income tax, tax year, total taxable supplies

Origin: 2004 No 35 s MB 32

NC 32 Wholly-owned groups of companies

When this section applies

(1) This section applies for the purposes of the provisional tax rules and Part 7 of the Tax Administration Act 1994 in relation to a company (**company A**) that is in a tax year part of a wholly-owned group of companies that includes another company (**company B**). Sections NM 13 to NM 17 (which relate to refunds) override this section.

Company A transferring overpayment to company B

(2) If, for a tax year, company A has paid an amount that is more than the provisional tax payable for the tax year, the company may transfer some or all of the overpayment to company B to the extent to which the amount of provisional tax paid by company B is less than their residual income tax for the tax year. Company A must notify the Commissioner under subsection (4).

When transfer made

(3) Company A may transfer an amount under subsection (2) on or after the later of—

(a) the day on which company A overpays the provisional tax; or

(b) the day on which the first instalment of provisional tax for the tax year becomes payable by company B.

Notice

(4) A notice under subsection (2) must—

(a) name company B, and the amount to be transferred; and

(b) state the date on which the overpayment is treated as transferred to company B; and

(c) be provided to the Commissioner within—

(i) the time for providing a return of income for the tax year for company B; or

(ii) an extension of time allowed by the Commissioner.

When transfer made, and how transfer treated

(5) For the purposes of this section,—

(a) a transfer under subsection (2) is treated as made on the date stated in the notice; and

(b) provisional tax transferred by company A to company B is treated as provisional tax paid by company B and not by company A.

Defined in this Act: amount, Commissioner, company, notice, notify, provisional tax, provisional tax rules, residual income tax, return of income, tax year, wholly-owned group of companies

Origin: 2004 No 35 s MB 33

NC 33 Amalgamated companies: calculating residual income tax

When this section applies

(1) This section applies for a tax year when an amalgamating company ends its existence on an amalgamation.

Residual income tax for preceding tax year

(2) The residual income tax of the amalgamated company for the preceding tax year is treated as the amount that would have been the residual income tax of the amalgamated company for the preceding tax year if the amalgamating company and the amalgamated company had been 1 company.

Exclusion

(3) Subsection (2) does not apply for the purposes of the provisional tax rules in relation to instalments of provisional tax payable before the amalgamation.

Defined in this Act: amalgamated company, amalgamating company, amalgamation, amount, provisional tax, provisional tax rules, residual income tax, tax year

Origin: 2004 No 35 s MB 34

Attribution rule for services

NC 34 Attribution rule for services

When this section applies

(1) This section applies for the purposes of the provisional tax rules and Part 7 of the Tax Administration Act 1994 for provisional tax paid for income from personal services to which section GC 14B (Attribution rule for personal services) may apply.

Person B transferring amount to person C

(2) If, in a tax year, person B pays an amount that is more than the provisional tax payable for the tax year, person B may transfer some or all of the overpayment to person C to the extent to which the amount of provisional tax paid by person C is less than their residual income tax for the tax year.

Person C transferring amount to person B

(3) If, in a tax year, person C pays an amount tax that is more than the provisional tax payable for the tax year, person C may transfer some or all of the overpayment to person B to the extent to which the amount of provisional tax paid by person B is less than their residual income tax for the tax year.

When transfer made

(4) Persons B and C may transfer an amount under subsection (2) or (3) on or after the later of—

(a) the day on which the overpayment of provisional tax is paid by person B or person C, as applicable; or

(b) the day on which the first instalment of provisional tax payable for the tax year becomes payable by—

(i) person C, if person B is making the transfer; or

(ii) person B, if person C is making the transfer.

Notice

(5) The Commissioner must be notified of a transfer under subsection (2) or (3) in a notice that—

(a) names the person to whom a transfer is made, and the amount to be transferred; and

(b) states the date on which the overpayment is treated as transferred to person B or person C, as applicable; and

(c) is provided within the time for providing a return of income for the tax year for the person to whom the transfer is made, or an extended time allowed by the Commissioner.

When transfer made, and how transfer treated

(6) For the purposes of this section,—

(a) a transfer under subsection (2) or (3) is treated as made on the day stated in the notice; and

(b) provisional tax transferred by person B to person C for a tax year is treated as provisional tax paid by person C and not by person B; and

(c) provisional tax transferred by person C to person B is treated as provisional tax paid by person B and not by person C.

Defined in this Act: amount, Commissioner, notice, notify, provisional tax, provisional tax rules, residual income tax, return of income, tax year

Origin: 2004 No 35 s MB 35

Credits

NC 35 Further income tax credited to provisional tax liability

When this section applies

(1) This section applies for the purposes of sections NC 9 to NC 11 if, under section ME 9 (Further tax payable where end of year debit balance or when company ceases to be imputation credit account company), a company applies an amount of further income tax to pay an instalment of provisional tax for which the company becomes liable after the date of payment of the further income tax.

Amount treated as provisional tax

(2) The instalment is satisfied to the extent of the amount of further income tax. The amount is treated as provisional tax paid on the date on which the instalment was payable.

Order

(3) The Commissioner must credit the amount of the further income tax in payment successively of—

(a) the instalment of provisional tax that is first payable after the date of payment of the further income tax; and

(b) to the extent of the amount of further income tax, to later instalments in the order in which they are payable.

Defined in this Act: amount, Commissioner, company, further income tax, provisional tax

Origin: 2004 No 35 s MB 37

Disaster relief

NC 36 Persons affected by adverse events

Who this section applies to

(1) This section applies to a person liable to pay provisional tax who has a business and is significantly affected by a self-assessed adverse event or qualifying event. This section overrides section NC 7.

Provisional taxpayer's request

(2) The person may ask the Commissioner to accept an estimate or a revised estimate of the residual income tax payable by them for a tax year.

Acceptance of estimate

(3) The Commissioner may accept an estimate or revised estimate described in subsection (2) if all the following requirements are met:

(a) the business is significantly affected by the self-assessed adverse event or qualifying event; and

(b) it is not reasonable to require the person to provide under section NC 7 an estimate or revised estimate of residual income tax payable by them for the tax year; and

(c) the basis on which the person has chosen to pay provisional tax is now inappropriate; and

(d) the person asks to revise their estimate as soon as practicable.

Treatment of revised estimate

(4) If a revised estimate is accepted under subsection (3), it is treated as the estimate applying on the date of instalment F.

Defined in this Act: business, Commissioner, provisional tax, qualifying event, self-assessed adverse event

Origin: 2004 No 35 s MB 38