

Subpart NP—Intermediaries

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Introductory provision

NP 1 What this subpart does

This subpart establishes the obligations of PAYE intermediaries and tax pooling intermediaries in relation to the collection and payment of tax and the provision of information, and sets out the requirements for the operation of their respective accounts.

Defined in this Act: PAYE intermediary

Origin: new

PAYE intermediaries

Obligations and treatment of PAYE intermediaries

NP 2 PAYE intermediaries

Transferring obligations

- (1) An employer may arrange to transfer their PAYE and ESCT obligations to a person approved under section 15D or 15G of the Tax Administration Act 1994 as a PAYE intermediary or a listed PAYE intermediary.

Paying amounts of tax and filing returns

- (2) A PAYE intermediary or listed PAYE intermediary must, on behalf of an employer who has transferred an obligation to them under subsection (1),—
 - (a) withhold and pay to the Commissioner the amount of tax for a payment under the PAYE rules and the ESCT rules; and
 - (b) file a return of income relating to the payment and the amount of tax for the payment.

When person no longer intermediary

- (3) A person who stops being a PAYE intermediary or a listed PAYE intermediary for an employer has the rights and obligations under the PAYE rules and ESCT

rules of a PAYE intermediary or listed PAYE intermediary, as applicable, in relation to funds that—

- (a) the employer pays to the person as intermediary; and
- (b) the person holds at the time they stop being an intermediary.

Defined in this Act: amount of tax, employer, ESCT, ESCT rules, listed PAYE intermediary, pay, PAYE, PAYE intermediary, PAYE rules, return of income

Origin: 2004 No 35 ss NBA 1, NBA 8, NBB 7(3)

NP 3 Requirements for listed PAYE intermediaries

For a period in which a person remains a listed PAYE intermediary, they must—

- (a) continue to qualify under section 15D of the Tax Administration Act 1994 as a PAYE intermediary; and
- (b) meet all the obligations of a PAYE intermediary; and
- (c) continue to meet the requirements set out in section 15F of that Act; and
- (d) operate technology systems to enable them to return by electronic means a subsidy claim form that contains a correct calculation of the amount of a subsidy under section NP 5 and section 15M of the Tax Administration Act 1994.

Defined in this Act: amount, listed PAYE intermediary, PAYE intermediary, subsidy claim form

Origin: 2004 No 35 s NBB 3

NP 4 Payment of subsidies to certain PAYE intermediaries

Requirements for payment of subsidy

- (1) The Commissioner may pay a subsidy to a listed PAYE intermediary for a payroll service that they provide to an employer to whom section ND 23(3) or (4) (PAYE payment forms for amounts of tax paid to Commissioner) applies if the listed PAYE intermediary—
 - (a) has a contract with the employer to provide the services; and
 - (b) has met their obligations under sections NP 13 to NP 16; and
 - (c) files a correct subsidy claim form under section 15M of the Tax Administration Act 1994.

Notification requirements

- (2) If a subsidy under subsection (1) is paid to a listed PAYE intermediary, the Commissioner must notify the intermediary within 14 days of the date of the payment of—
- (a) the amount of the subsidy paid in relation to each employer; and
 - (b) the period to which the subsidy relates; and
 - (c) other information that may be relevant to the payroll services provided as the Commissioner considers appropriate.

Calculating amount of subsidy

- (3) The listed PAYE intermediary must calculate the amount of the subsidy in the manner provided by regulations made under this section.

Paying amount of subsidy

- (4) The Commissioner must pay the amount of the subsidy within 30 days of receiving the last of—
- (a) the employer's monthly schedule to which the subsidy claim form relates;
 - (b) the payment of the amounts of tax for a PAYE payment to which the subsidy claim form relates;
 - (c) the subsidy claim form.

Bank accounts

- (5) The Commissioner must pay the subsidy to a bank account nominated by the listed PAYE intermediary for the purpose or, if an overpayment has been made to the listed PAYE intermediary, to the listed PAYE intermediary's bank account.

Prescribing amount of subsidy

- (6) The Governor-General may from time to time by Order in Council prescribe the amount of the subsidy to be paid for an employee of an employer who contracts the services of a listed PAYE intermediary under section 15J of the Tax Administration Act 1994.

Defined in this Act: amount, amount of tax, Commissioner, employee, employer, employer's monthly schedule, listed PAYE intermediary, pay, subsidy claim form

Origin: 2004 No 35 s NBB 6

NP 5 Subsidy claims

When this section applies

- (1) This section applies when a listed PAYE intermediary files a subsidy claim form under section 15M of the Tax Administration Act 1994 and the Commissioner amends the details to correct an error.

Overpaid or underpaid amounts

- (2) If an overpayment or underpayment results from the amendment, the intermediary or Commissioner, as applicable, must pay the amount overpaid or underpaid within 30 days of the date of notice under section 15M(3).

Using overpayment to pay subsidy

- (3) Despite subsection (2), the Commissioner may choose to use the amount of an overpayment resulting from an amendment to pay a subsidy claim made after the end of the 14-day period referred to in section 15M(3).

Defined in this Act: Commissioner, listed PAYE intermediary, subsidy claim form

Origin: 2004 No 35 s NBB 5

NP 6 Operation of PAYE intermediaries' trust accounts

Nature of account

- (1) A PAYE intermediary's trust account must be named as a trust account and established at a registered bank within the meaning of the Reserve Bank of New Zealand Act 1989.

Deposits

- (2) The deposits to the account consist of—
- (a) a payment of gross salary or wages paid by an employer:
 - (b) an amount of employer's superannuation contribution paid by an employer:
 - (c) an amount of tax for a payment of salary or wages required under the PAYE rules and ESCT rules, or made under section NP 12:
 - (d) an amount of a refund made by the Commissioner under section NM 7 (Refunds to PAYE intermediaries):
 - (e) interest on the amount of the funds in the trust account.

Withdrawals

- (3) The withdrawals from the account consist of—
- (a) a payment of net salary or wages to an employee:
 - (b) an amount of employer's superannuation contribution paid by an employer:
 - (c) an amount of tax for a payment of salary or wages withheld under section NP 12:
 - (d) a payment that an employer would be required to make but for the arrangement with the PAYE intermediary, in relation to an amount of tax for a payment of salary or wages to an employee or an employer's superannuation contribution made on behalf of an employee:

- (e) interest on the amount of the funds in the trust account.

Payments held on trust

- (4) A payment relating to an employee that is credited to the trust account of a PAYE intermediary is held by the PAYE intermediary on trust for the benefit of the employee and the Commissioner according to their respective rights and obligations.

Interest

- (5) Interest earned in the trust account of a PAYE intermediary by a payment that relates to an employee is held beneficially by the PAYE intermediary.

Defined in this Act: amount, amount of tax, Commissioner, employee, employer, employer's superannuation contribution, ESCT rules, interest, pay, PAYE intermediary, PAYE rules, salary or wages

Origin: 2004 No 35 s NBA 6

Employers' responsibilities

NP 7 General responsibilities of employers

When this section applies

- (1) This section applies when an employer who meets the requirements of sections NP 8 to NP 11 arranges to transfer their PAYE obligations in relation to an employee and a pay period to a PAYE intermediary.

PAYE liabilities

- (2) The employer is not liable under the PAYE rules in relation to the employee and the pay period. However, the employer remains liable for the payment to the employee of the salary or wages for the pay period.

ESCT liabilities

- (3) If the PAYE intermediary assumes the employer's obligations under the ESCT rules, the employer is not liable under the ESCT rules in relation to the employee and the pay period. However, the employer remains liable for the payment to the employee of the employer's superannuation contribution on the employee's behalf.

Defined in this Act: employee, employer, employer's superannuation contribution, ESCT rules, pay period, PAYE, PAYE intermediary, salary or wages

Origin: 2004 No 35 s NBA 4(2), (3)

NP 8 Information required from employers

An employer must—

- (a) keep a record of—
 - (i) the gross salary or wages of an employee for a pay period; and
 - (ii) the amounts of tax withheld by the employer for the pay period; and
- (b) provide the information the PAYE intermediary seeks in the time agreed by the employer and PAYE intermediary.

Defined in this Act: amount of tax, employee, employer, pay period, PAYE intermediary, salary or wages

Origin: 2004 No 35 s NBA 4(1B)

NP 9 Authorised transfers from accounts

When this section applies

- (1) This section applies when an employer has authorised the PAYE intermediary to direct the transfer of an amount from the employer's bank account to meet an obligation that the PAYE intermediary has on the employer's behalf in relation to an employee and a pay period.

Sufficient funds

- (2) The employer must ensure, at a time fixed by the PAYE intermediary, that the bank account has sufficient funds available for the transfer.

Defined in this Act: amount, employee, employer, pay period, PAYE intermediary

Origin: 2004 No 35 s NBA 4(1)(a)

NP 10 When transfers from accounts not authorised

Employer to pay amount of tax to trust account

- (1) If an employer has not authorised a PAYE intermediary to direct the transfer of funds as described in section NP 9, and the employer pays salary or wages directly to an employee for a pay period under section NP 12, the employer must pay the amount of tax for the payment required under the PAYE rules and ESCT rules into the PAYE intermediary's trust account.

Employer to pay salary or wages to trust account

- (2) If the employer has not authorised the PAYE intermediary to direct the transfer of funds as described in section NP 9, and subsection (1) does not apply, the

employer must pay the amount of the employee's gross salary or wages for the pay period into the PAYE intermediary's trust account. However, the employer may retain an amount lawfully owed to them by the employee before making the payment.

Defined in this Act: amount of tax, employee, employer, ESCT rules, pay, pay period, PAYE intermediary, PAYE rules, salary or wages

Origin: 2004 No 35 s NBA 4(1)(b)(i), (ii)

NP 11 Employer's superannuation contributions

If a PAYE intermediary has assumed the obligations of an employer under the ESCT rules in relation to an employee and a pay period, the employer must pay the amount of the employer's superannuation contribution made in the pay period on behalf of the employee into the PAYE intermediary's trust account.

Defined in this Act: amount, employee, employer, employer's superannuation contribution, ESCT rules, pay period, PAYE intermediary

Origin: 2004 No 35 s NBA 4(1)(b)(iii)

NP 12 When payments made directly to employees

Despite sections NP 9 and NP 10, an employer may pay an employee's salary or wages directly to the employee in the following circumstances:

- (a) the payment is made on a day in a pay period that is not the usual day for a payment of salary or wages for the pay period; and
- (b) the payment is—
 - (i) an advance of the employee's salary or wages;
 - (ii) salary or wages owed to the employee for an earlier pay period;
 - (iii) a payment on the termination of the employee's employment; and
- (c) the employer withholds for the salary or wages of the employee the amount of tax that would be required under the PAYE rules and the ESCT rules if the employer did not have an arrangement with a PAYE intermediary; and
- (d) the employer pays the amount in the way described in sections NP 9 to NP 11.

Defined in this Act: amount of tax, arrangement, employee, employer, employment, ESCT rules, pay, pay period, PAYE rules, salary or wages

Origin: 2004 No 35 s NBA 4(4)

PAYE intermediaries' responsibilities

NP 13 General responsibilities of PAYE intermediaries

When this section applies

- (1) This section applies when a PAYE intermediary assumes the PAYE and ESCT obligations in relation to an employee and a pay period that an employer would have under those rules if section NP 2(1) did not exist.

No liability as employer

- (2) The PAYE intermediary does not become liable as an employer for the payment to the employee of the salary or wages for the pay period, or for the payment of an employer's superannuation contribution made on behalf of the employee.

Defined in this Act: employee, employer, employer's superannuation contribution, ESCT, pay period, PAYE, PAYE intermediary, salary or wages

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

NP 14 Collection, payment, and information requirements

A PAYE intermediary must—

- (a) calculate and withhold the amount of tax for a payment of salary or wages, and pay the amount to the Commissioner by electronic means and in the format required:
- (b) provide an employer's monthly schedule to the Commissioner by electronic means and in the format required:
- (c) provide a PAYE payment form to the Commissioner if required:
- (d) keep the records referred to in section 24 of the Tax Administration Act 1994.

Defined in this Act: amount of tax, Commissioner, employer's monthly schedule, pay, PAYE intermediary, PAYE payment form, salary or wages

Origin: 2004 No 35 s NBA 5(1)

NP 15 When employers have authorised transfers from accounts

If a PAYE intermediary has been given an authorisation by an employer under section NP 2(1), the intermediary must direct that, at or before the time of the transfer of the payment of salary or wages, an amount equal to the amount of tax for the payment required under the PAYE rules and ESCT rules is transferred to—

- (a) the Commissioner; or
- (b) the trust account established by the PAYE intermediary and identified in the employer's notice under section 15J of the Tax Administration Act 1994.

Defined in this Act: amount, amount of tax, Commissioner, employer, ESCT rules, pay, PAYE intermediary, PAYE rules, salary or wages

Origin: 2004 No 35 s NBA 5(1B)

NP 16 Obligations for employer's superannuation contributions

When section NP 11 applies, the PAYE intermediary assumes the obligations under the ESCT rules in relation to the employee and the pay period that the employer would have had if section NP 2(1) did not exist.

Defined in this Act: employee, employer, ESCT rules, pay period, PAYE intermediary

Origin: 2004 No 35 s NBA 5

Tax pooling intermediaries

NP 17 Tax pooling intermediaries

A person (**person A**) may ask a person who maintains a tax pooling account to act as a tax pooling intermediary between person A and the Commissioner in using funds in the tax pooling account to meet an obligation of person A to pay provisional tax.

Defined in this Act: Commissioner, provisional tax, tax pooling account

Origin: 2004 No 35 s MBA 2

NP 18 Deposits in tax pooling accounts

When this section applies

- (1) This section applies when a tax pooling intermediary makes a deposit in a tax pooling account on behalf of a person.

Deposit held in trust

- (2) The intermediary holds the principal amount of the person's deposit in trust for the person until the amount is—
- (a) credited to the person's tax account with the Commissioner;
 - (b) credited to another person's tax account with the Commissioner;
 - (c) refunded to the person.

Notification required

- (3) The intermediary must—
- (a) notify the person, at or before the time the person pays an amount to the intermediary, that the payment does not satisfy an obligation of the person to make a payment to the Commissioner; and
 - (b) notify the Commissioner by electronic means, providing for each person who has contributed an amount as a deposit,—
 - (i) the person's name and tax file number; and
 - (ii) the amount of the person's contribution.

Commissioner's notification

- (4) On receiving the deposit and details described in subsection (3), the Commissioner must notify the intermediary of—
- (a) the account in which the deposit is paid; and
 - (b) the names of all persons who are connected with the deposit; and
 - (c) the amount of each person's deposit.

Refunding deposit

- (5) If the details described in subsection (3) are not provided within 5 working days after a deposit is made, the Commissioner must refund the deposit.

Defined in this Act: amount, Commissioner, notify, tax file number, tax pooling account, working day

Origin: 2004 No 35 s MBA 5

NP 19 Transfers from tax pooling accounts

Transferring amounts

- (1) A tax pooling intermediary may ask the Commissioner to transfer an amount in their tax pooling account to the tax account of a person who is their client. The amount transferred and credited to the person's account is treated as income tax paid to meet a provisional tax obligation under the provisional tax rules.

Credited on date of deposit or later

- (2) The intermediary may ask the Commissioner that the amount of a transfer under subsection (1) is credited in the person's tax account on the date on which the amount was deposited in the tax pooling account or on some later date.

Credit date

- (3) The credit date for an amount transferred to a person's tax account is—
- (a) the date sought under subsection (2), unless—
 - (i) that date falls in a tax year for which the person's terminal tax date is more than 60 days before the date on which the Commissioner receives the request; and
 - (ii) when the Commissioner receives the request, the person is liable for a penalty relating to their provisional tax obligations for the tax year; or
 - (b) the date on which the Commissioner receives the request for the transfer.

Details

- (4) For the purposes of this section, the intermediary must provide the following details to the Commissioner by electronic means:
- (a) the date of the transfer and the credit date, if it is different; and
 - (b) the amount of the transfer; and
 - (c) the tax file number of the person for whom the amount is transferred.

Statement

- (5) When an amount is transferred, the Commissioner must provide a statement showing the effect of the transfer to both the intermediary and the person for whom the transfer is made.

Defined in this Act: amount, Commissioner, income tax, pay, provisional tax, provisional tax rules, tax file number, tax pooling account, tax year, terminal tax

Origin: 2004 No 35 s MBA 6

NP 20 Refusals to transfer amounts

When this section applies

- (1) This section applies when a tax pooling intermediary asks to transfer an amount under section NP 19.

Tax avoidance

- (2) The Commissioner may refuse to accept the request, or may reverse the transfer, if it the request is made for the purpose or effect of tax avoidance.

Failure to provide details

- (3) The Commissioner must refuse the transfer if—
- (a) it relates to a deposit for which the details have not been provided under section NP 18(3) and the period of 5-working days has not expired:
 - (b) the details required under section NP 19(4) have not been provided.

Defined in this Act: amount, Commissioner, tax avoidance, working day

Origin: 2004 No 35 s MBA 6(4)-(9)

NP 21 Refunds from tax pooling accounts

A tax pooling intermediary may ask the Commissioner to refund some or all of the balance in their tax pooling account.

Defined in this Act: Commissioner, tax pooling account

Origin: 2004 No 35 s MBA 7