

Hon David Parker, Minister of Revenue

Information Release

Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021

March 2022

Availability

This information release is available on Inland Revenue's tax policy website at <https://taxpolicy.ird.govt.nz/publications/2022/2022-ir-cab-leg-21-sub-0027>

Documents in this information release

#	Reference	Type	Title	Date
1	IR2021/017	Tax policy report	Business Transformation Stage 4: refunding of tax types by direct credit	26 January 2021
2	IR2021/055	Tax policy report	Direct crediting of refunds: Cabinet Legislation Committee paper	17 February 2021
3	LEG-21-SUB-0027	Cabinet paper	Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021	18 March 2021
4	LEG-21-MIN-0027	Minute	Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021	18 March 2021

Additional information

The Cabinet paper was considered by the Cabinet Legislation Committee on 18 March 2021 and confirmed by Cabinet on 22 March 2021.

One attachment to the Cabinet paper is not included in this information release as it is publicly available:

- Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021¹

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

9(2)(a) to protect the privacy of natural persons, including deceased people

¹ Available at <https://www.legislation.govt.nz/regulation/public/2021/0049/latest/whole.html>

Accessibility

Inland Revenue can provide an alternate HTML version of this material if requested. Please cite this document's title, website address, or PDF file name when you email a request to policy.webmaster@ird.govt.nz

Copyright and licensing

Cabinet material and advice to Ministers from the Inland Revenue Department and other agencies are © Crown copyright but are licensed for re-use under the Creative Commons Attribution 4.0 International (CC BY 4.0) licence (<https://creativecommons.org/licenses/by/4.0/>).





POLICY AND STRATEGY

Business Transformation Stage 4: refunding of tax types by direct credit

Date:	26 January 2021	Priority:	Low
Security level:	In Confidence	Report number:	[IR2021/017]

Action sought

	Action sought	Deadline
Parliamentary Under-Secretary to the Minister of Revenue	Agree to recommendations	11 February 2021

Contact for telephone discussion (if required)

Name	Position	Telephone
Mike Nutsford	Policy Lead	s 9(2)(a)
Aftab Jahan	Senior Policy Advisor	

26 January 2021

Parliamentary Under-Secretary to the Minister of Revenue

Business Transformation Stage 4: refunding of tax types by direct credit

Purpose

1. This report seeks your agreement to implement compulsory direct crediting of refunds of unclaimed money, casino duty, lottery duty, and totalisator duty to a bank account nominated by a taxpayer. These tax types are moving to START,¹ Inland Revenue's software platform, as part of Business Transformation Stage 4.

Background

2. This proposal can be implemented through an Order in Council. There is an existing legislative framework in the *Tax Administration Act 1994* ("TAA") which provides for progressive implementation of compulsory direct crediting for tax types that Inland Revenue administers. This framework was enacted with effect from 1 April 2000 to benefit taxpayers by eliminating time delays associated with the postal system and costs related to the banking of cheques. Inland Revenue also benefits from reduced administration costs.
3. Progressive implementation of compulsory direct crediting of refunds for the various tax types through Orders in Council allows Inland Revenue the necessary flexibility to determine the dates, in terms of system readiness, for implementing direct crediting. This approach gives taxpayers more time to provide Inland Revenue with up-to-date bank account details and (for taxpayers with complex business activities) to plan and adapt their processes.
4. The Commissioner of Inland Revenue would eventually be required to direct credit all refunds into taxpayers' bank accounts.
5. The meaning of "tax" for the purpose of direct crediting of refunds is not limited to income tax. It extends to other products Inland Revenue administers. Compulsory direct crediting of refunds already applies to donation tax credits, goods and services tax, and student loan deductions as part of moving the administration of these tax types to START.
6. Unclaimed money, casino duty, lottery duty, and totalisator duty are considered tax types for the purpose of making refunds. A refund of a duty or interest paid in error or in excess can be made by direct credit in accordance with the requirements of section 184A of the TAA.
7. Officials recommend making the following tax types refundable by direct credit under section 184A of the TAA:
 - 7.1 unclaimed money;
 - 7.2 casino duty;
 - 7.3 lottery duty; and
 - 7.4 totalisator duty.

¹ Simplified Tax and Revenue Technology

In Confidence

8. The administration of the above tax types will be moved to the START system from March 2021 as part of Business Transformation Stage 4, and direct crediting of refunds should therefore apply 28-days after an Order in Council is issued in this regard.

Implementation

9. Where refunds are required to be direct credited, an exemption will be available for taxpayers who would experience undue hardship or for circumstances where it is impracticable to refund through direct credit.
10. The proposed changes will have no fiscal impact. Any administrative costs of implementing the proposed change will be accommodated within the Business Transformation programme funding.

Consultation

11. Treasury has been informed of the contents of this report.

Next steps

12. If you agree, we will invite the Parliamentary Council Office to draft an Order in Council to implement direct crediting under section 184A of the TAA for unclaimed money, casino duty, lottery duty, and totalisator duty.
13. If you agree with the recommendations in this report, officials will provide you and the Minister of Revenue a draft Cabinet Legislation Committee paper and draft regulations by 18 February 2021 so that the direct crediting of refunds of unclaimed money, casino duty, lottery duty, and totalisator duty can commence 28 days after gazetting. Our tentative timeline for the making of the Order in Council follows.

Actions	Date
Draft Cabinet Legislation Committee paper with draft Order in Council seeking approval for lodgement	18 February 2021
Lodgement of cabinet paper with Cabinet Office	4 March 2021
Cabinet Legislation Committee meeting	11 March 2021
Cabinet approval and Executive Council	15 March 2021
Gazette date	18 March 2021
Coming-into-force date	15 April 2021

Recommended action

We recommend that you:

14. **agree** that Inland Revenue should issue refunds of unclaimed money, casino duty, lottery duty, and totalisator duty by direct credit, unless this would result in undue hardship or is not practicable; and

Agreed/Not agreed

15. **direct** Parliamentary Counsel Office to draft an Order in Council giving effect to the above recommendation.

Agreed/Not agreed

Mike Nutsford

Policy Lead – Tax Administration
Policy and Strategy

Dr Deborah Russell

Parliamentary Under-Secretary to the Minister of Revenue
/ /2021



POLICY AND STRATEGY

Tax policy report: Direct crediting of refunds: Cabinet Legislation Committee paper

Date:	17 February 2021	Priority:	Low
Security level:	In Confidence	Report number:	IR2021/055

Action sought

	Action sought	Deadline
Minister of Revenue	Authorise and lodge the attached Cabinet Legislation Committee paper by 11 March for consideration at LEG on 18 March	11 March 2021
Parliamentary Under-Secretary to the Minister of Revenue	For your information	N/A

Contact for telephone discussion (if required)

Name	Position	Telephone
Mike Nutsford	Policy Lead	s 9(2)(a)
Aftab Jahan	Senior Policy Advisor	

17 February 2021

Minister of Revenue

Parliamentary Under-Secretary to the Minister of Revenue

Direct crediting of refunds: Cabinet Legislation Committee paper

Purpose

1. This report asks you to consider and authorise the lodgement of the attached draft Cabinet Legislation Committee ("LEG") paper. The paper seeks approval to submit an Order in Council to the Executive Council, to enable Inland Revenue to implement compulsory direct crediting to taxpayers of refunds of totalisator duty, lottery duty, casino duty, and unclaimed money.

Context and Background

2. The Parliamentary Under-Secretary to the Minister of Revenue has previously agreed to implementing compulsory direct crediting of refunds of totalisator duty, lottery duty, casino duty, and unclaimed money, and for officials to instruct the Parliamentary Counsel Office ("PCO") to draft an Order in Council to give effect to the policy change (IR2021/017 refers).
3. The Tax Administration Act 1994 provides for the progressive implementation, through Orders in Council, of compulsory direct crediting for the tax types that Inland Revenue administers. Progressive implementation ensures Inland Revenue has the necessary flexibility to prepare its systems before direct crediting is implemented. It also gives taxpayers more time to provide Inland Revenue with up-to-date bank account details and (for taxpayers with complex business activities) to plan and adapt their processes. The intent is that the Commissioner of Inland Revenue will eventually be required to direct credit all refunds into taxpayers' bank accounts.
4. PCO have drafted the Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021 ("the Order in Council"). Officials have prepared a draft LEG paper for your consideration and (if you agree) for lodgement with the Cabinet Office by 11 March 2021 and for consideration at the LEG meeting of 18 March 2021.

Implementation

5. As with other tax types such as donation tax credits, goods and services tax, and student loan deductions where refunds are required to be direct credited, an exemption will be available for taxpayers who would experience undue hardship or for circumstances where it is impracticable to refund through direct credit. An example of this is where a taxpayer does not have a New Zealand bank account, so Inland Revenue cannot direct credit any tax refunds to the taxpayer.
6. The proposed changes will have no fiscal impact. Any administrative costs of implementing the proposed change will be accommodated within existing Business Transformation programme funding.

Consultation

7. The Treasury and the PCO have been informed of the contents of this report.

Next steps

8. If you agree, the PCO would provide the Cabinet Office with the Order in Council.
9. If you are comfortable with the draft LEG paper, please authorise and lodge with the Cabinet Office by 10am Thursday 11 March 2021.
10. Our intention is that LEG paper be considered at the LEG meeting of 18 March 2021 and apply to refunds of these tax types 28 days after the gazetting of the Order. We have attached speaking notes for your use at LEG.
11. We recommend the Cabinet paper, and associated Order in Council, be proactively released in full shortly following the publication of the signed Order in Council in the New Zealand Gazette.

Recommended action

We recommend that you:

12. **Authorise** the lodgement of the attached draft Cabinet Legislation Committee paper, seeking Cabinet approval to submit an Order in Council to the Executive Council, with the Cabinet Office by 11 March 2021.

Authorised

Mike Nutsford

Policy Lead
Policy and Strategy

Hon David Parker
Minister of Revenue
/ /2021

Dr Deborah Russell
Parliamentary Under-Secretary to the
Minister of Revenue
/ /2021

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

Tax Administration (Direct credit of Totalisator Duty, Lottery Duty, Casino duty, and Unclaimed Money) Order 2021

Proposal

1. This paper seeks the Cabinet Legislation Committee's agreement to submit the Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021 to the Executive Council.
2. It is proposed that the Order in Council applies to implement refunds of totalisator duty, lottery duty, casino duty, and unclaimed money by direct credit from 28 days after the gazetting of the Order.

Policy

3. I recommend that refunds of totalisator duty, lottery duty, casino duty, and unclaimed money be made by direct credit from March 2021. Refunds would be made by direct credit unless they would result in undue hardship or be impracticable (for example, if a taxpayer does not have a New Zealand bank account, so it is not possible to provide a direct credit). The administration of these tax types has moved to a new technology platform from 1 March 2021.
4. To implement this proposal, the Parliamentary Council Office has drafted the Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021. This is in accordance with an existing legislative framework in the Tax Administration Act 1994. The framework provides for the progressive implementation of compulsory direct crediting for tax types that Inland Revenue administers through Orders in Council and was enacted with effect from 1 April 2000. It benefits taxpayers by eliminating the time delays and costs associated with posting cheques and reflects that the processing of cheques is being phased out by the banks. Inland Revenue also benefits from reduced administration costs.
5. Progressive implementation of compulsory direct crediting of refunds through Orders in Council ensures Inland Revenue has the necessary flexibility to prepare its systems before implementing direct crediting. It also gives affected taxpayers time to provide Inland Revenue with up-to-date bank account details and (for taxpayers with complex business activities) more time to plan and adapt their processes. The intent is that the Commissioner will eventually be required to direct credit all refunds into taxpayers' bank accounts.

6. Compulsory direct crediting has been implemented for refunds of gaming machine duty, income tax, goods and services tax, employees' child support deducted by employers, and student loan deductions. This implementation has occurred as part of moving the administration of these tax types to Inland Revenue's new technology platform.

Timing and 28-Day Rule

7. I propose that direct crediting of refunds for totalisator duty, lottery duty, casino duty, and unclaimed money under section 184A of the Tax Administration Act 1994 applies to refunds made from 28 days after the gazetting date. The Order would therefore be in accordance with the rule that regulation must not come into force until at least 28 days after the public have been notified in the New Zealand Gazette.

Compliance

8. The Order complies with:
 - 8.1 the principles of the Treaty of Waitangi;
 - 8.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 8.3 the principles and guidelines set out in the Privacy Act 1993;
 - 8.4 relevant international standards and obligations; and
 - 8.5 the Legislation Guidelines, which are maintained by the Legislation Design and Advisory Committee.
9. No statutory prerequisite exists for making this Order.

Regulations Review Committee

10. There are no anticipated grounds for the Regulations Review Committee to draw the Order in Council to the attention of the House under Standing Order 319.

Certification by Parliamentary Counsel

11. The Parliamentary Counsel Office has certified that the Order in Council is in order for submission to Cabinet.

Impact Analysis

12. The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper are exempt from the requirement to provide a Regulatory Impact Assessment as they have no or minor impacts on businesses, individual or not for profit entities.

Publicity

13. The new Order in Council will be published in the New Zealand Gazette and on Inland Revenue's website. Inland Revenue will also publish an article about these changes in its Tax Information Bulletin.

Proactive Release

14. I propose to release this Cabinet paper, and associated Order in Council, in full shortly following the publication of the signed Order in Council in the New Zealand Gazette.

Consultation

15. The Treasury has been informed in the preparation of this paper and the Parliamentary Counsel Office have been consulted in the preparation of this paper.

Recommendations

The Minister of Revenue recommends that the Cabinet Legislation Committee:

1. **agree** that Inland Revenue should issue refunds of totalisator duty, lottery duty, casino duty, and unclaimed money by direct credit, unless doing so would result in undue hardship or is not practicable;
2. **note** that the Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021 will give effect to the decision referred to in paragraph 1 above; and
3. **authorise** the submission to the Executive Council of the Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021.

Authorised for lodgement

Hon David Parker
Minister of Revenue



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021

Portfolio **Revenue**

On 18 March 2021, the Cabinet Legislation Committee:

- 1 **noted** that Section 184A of the Tax Administration Act 1994 provides for the phased implementation of compulsory direct crediting of tax refunds through Orders in Council for the various tax types;
- 2 **agreed** that Inland Revenue issue refunds of totalisator duty, lottery duty, casino duty, and unclaimed money by direct credit, unless doing so would result in undue hardship or is not practicable;
- 3 **noted** that the Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021 gives effect to the decision referred to above;
- 4 **authorised** the submission to the Executive Council of the Tax Administration (Direct Credit of Totalisator Duty, Lottery Duty, Casino Duty, and Unclaimed Money) Order 2021 [PCO 23417/4.0];
- 5 **noted** that the Order will come into force on 27 April 2021.

Gerrard Carter
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon David Parker
Hon Poto Williams
Hon Kris Faafoi
Hon Michael Wood (Deputy Chair)
Keiran McAnulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Hard-copy distribution:

Minister of Revenue