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A special report from

Policy and Strategy, Inland Revenue

Simplifying tax administration – individuals' income tax

The Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Act 2019 has introduced changes that will simplify individuals' year-end income tax filing obligations and will help people to use more appropriate rates of withholding during the year.

This special report provides early information on the new rules and precedes full coverage of the new legislation in the May 2019 edition of the *Tax Information Bulletin*.

The following items are covered in this special report:

- The year-end income tax obligations of individuals.
- Refunds and tax to pay.
- Pro-active actions.
- Tailored (special) tax codes.
- The administration of donations tax credits.

OVERVIEW

Subpart 3B, sections 24B, 24D, 24DB, 25A, 33,41, 41A, 89C, 89D 92, 106, 108, 108B, 110, 111, ,120C, 141JA, 143, 173L, 184A, 227G and schedule 8 of the Tax Administration Act 1994

Sections LB 7, RM 2, RM 4, RM 5, RZ 15, RZ 16 of the Income Tax Act 2007

New rules have been introduced to simplify individuals' year-end income tax filing obligations and to help people use more appropriate rates of withholding during the year.

The key changes:

- enable Inland Revenue to proactively help individuals to use the most appropriate tax rates or codes;
- enable the use of tailored tax codes to improve the way that secondary sources of income and irregular patterns of income earning are taxed;
- simplify the year-end income tax obligations of individuals;
- enable the automation of refunds of tax and amounts of tax to pay; and
- improve the administration of donations tax credits.

Other miscellaneous amendments have also been made to ensure the individuals' income tax changes are integrated smoothly into the tax system. These include changes to the refund provisions and the time bar.

Application date

The changes apply from 1 April 2019 and the end of year processes apply to the tax year ended 31 March 2019 and later income years.

THE YEAR-END INCOME TAX OBLIGATIONS OF INDIVIDUALS

Subpart 3B, sections 33, 37, 41, 89C, 89D, 92, 106, 108, 108B, 110, 111, 143, 173L, 184A, 227G and schedule 8 of the Tax Administration Act 1994.

A number of amendments have been made that will simplify the end of year income tax obligations of individuals and some of the processes that Inland Revenue performs.

All section references are to the Tax Administration Act 1994 unless otherwise stated.

Background

In previous tax years, the year-end processes for individuals required Inland Revenue to determine whether or not individuals who earn PAYE income should be issued with a personal tax summary (PTS) containing their PAYE income information or whether they ought to be filing a tax return. If an individual was not sent a PTS by Inland Revenue, they could request one. If an individual did not get a PTS or did not file a tax return, their tax position would not be squared up. This meant that any refund available or amount of tax payable would not be calculated, and the amount of tax the individual had to pay for the tax year would simply be based on what had already been withheld. When a PTS was issued, if the refund amount was less than $600, it was treated as confirmed after two months and the refund would be paid out. If the refund was greater than $600, the taxpayer was required to confirm the PTS as correct before the refund would be paid.

As the PTS only includes salary and wage information, individuals were required to add in income from other sources, such as interest income or dividend income. Sometimes an individual would need to gather this information from several payers even though these payers may have also provided this information to Inland Revenue directly. An IR3 tax return was required where the individual had other types of income such as business income or foreign sourced income, or if they wished to claim deductions or tax credits.

As a result, a large number of individuals would choose to interact with Inland Revenue through PTS intermediaries, perhaps because of a lack of awareness of how to directly claim any available refund directly from Inland Revenue. PTS intermediaries assist taxpayers with refund claims and typically charge a percentage of the refund or a fixed fee for the service they offer. If an individual instead applied directly to Inland Revenue, they would receive the full amount of their refund.

It was also possible for an individual to work out whether they were due a refund or had tax to pay by requesting a summary of earnings before they requested a PTS. Generally, taxpayers who had requested a summary of earnings were not then required to request a PTS, with the result that a PTS was typically only requested when refunds were due.

Key features

The end of year income tax process changes will mean that more individuals will have an end of year square up, with more refunds or bills of tax to pay being issued as applicable. Under the new rules, Inland Revenue will do most of the work by pre-populating as much information about an individual’s income and tax credits as possible into the individual’s pre-populated account. This account will contain income information for all the types of income that are subject to regular reporting to Inland Revenue, such as PAYE income, which is referred to as “reportable income”.

This pre-populated account forms the basis for the calculation of the individual's tax position (refund or tax to pay). If the Commissioner is satisfied that an individual's income information as set out in their pre-populated account is correct and complete, Inland Revenue may finalise the individual's account for the tax year.

Some individuals will be required to provide additional information on their "other income" (income other than their reportable income) which may not be contained in the pre-populated account and will be able to provide information on deductions and tax credits when relevant. This additional information will be added to the individual's pre-populated account and will form part of the individual's self-assessment.

This means that, generally, individuals who only earn reportable income will not have to do anything, and Inland Revenue will automatically issue them with a refund or tax bill once the account is finalised. Only individuals who earn other income or have deductions that Inland Revenue does not already know about will have to provide further information to Inland Revenue and file tax returns.

New error correction provisions and processes provide simpler ways for individuals and Inland Revenue to adjust the information if they become aware that an account is incorrect. This can be done before an assessment has occurred or after subject to the time-bar rules.

The key changes are as follows:

- Inland Revenue will make pre-populated accounts available to individuals containing the relevant income information for the tax year.
- If the Commissioner is satisfied that the information set out in the pre-populated account correctly and completely records the individual's income for the year, Inland Revenue will calculate the refund or tax to pay without the individual needing to provide any additional information.
- Inland Revenue will pay out refunds without the individual having to confirm the tax position that Inland Revenue has calculated.
- Individuals who earn other income will be required to provide income information other than reportable income to Inland Revenue subject to *de minimis* rules before an assessment can be completed.
- Individuals will be able to provide other relevant information such as deductible expenses and relevant tax credit information to Inland Revenue.
- Individuals will be required to provide or correct reportable income if they know, or might reasonably be expected to have known, that the reportable income amount should properly be included in their final account.
- An individual's tax assessment will arise once they have confirmed the tax information is complete, when the Commissioner is satisfied that the information is correct and complete, or if the Commissioner is not satisfied that the information is correct and complete and issues a default assessment.
- Individuals and Inland Revenue will be able to make corrections to the information held if they become aware that it is incorrect or incomplete and there will be error correction processes for adjustments made before and after an assessment has occurred.

- Qualifying individuals, being those who only earn reportable income, will be able to amend their assessment at any time up until their terminal tax date without being exposed to penalties or interest.
- The end of year income tax process will replace the current PTS process and will replace the IR3 tax return immediately for online filers and over time for any paper filers as the paper IR3 is phased out.

Application date

The amendments apply from 1 April 2019 for the 2018-19 tax year.

Detailed analysis

Key terms – Section 22D

Inland Revenue will make a pre-populated account available for an individual for the tax year which will include the relevant income information that Inland Revenue holds about the individual. The individual's tax assessment will crystallise once this pre-populated account becomes a "final account" in accordance with these new rules. Individuals will be grouped based on the type of income they earn. Whether an individual is a "qualifying individual" or not influences the way in which the individual's tax position is finalised, their obligations and the concessions they may be eligible for.

The key terms below are defined in section 22D.

Individual

The new individuals' income tax changes apply to "individuals" as defined only. New section 22D(1) defines an individual as a natural person. This definition includes a natural person who is non-resident, unless their only income is non-residents' foreign-sourced income. This is necessary to exclude individuals who are not New Zealand taxpayers under existing law. Deceased natural persons are also excluded from the date of their death. Legal persons, such as companies, are not subject to the new provisions and must fulfil their tax obligations under existing law.

Income definitions

The income earnt by individuals is categorised as either "reportable income" or "other income".

Reportable income

Reportable income is defined in new section 22D(3). Reportable income is income that Inland Revenue receives regular information about, typically from third party payers such as employers, during the income year or by 31 May following the end of the relevant tax year. This includes PAYE income payments, along with resident and non-resident passive income.

Importantly, new section 22D(3)(b) states that income will not be "reportable income" if the payer of the income, for example an employer or bank, does not have the individual's tax file number. Where recipients of reportable income do not ensure that their payers have their tax file number, they will be obliged to provide Inland Revenue with the relevant income information.

Example 1: Roger

Roger gets his first job at the local library in his town. His new employer tells him he needs to obtain an IRD number. Roger applies for and receives an IRD number but forgets to give it to his employer. The payroll staff at the library do not follow up with Roger about his IRD number and pay him his wages and account for the PAYE to Inland Revenue.

Roger decides he does not like working at the library and resigns from his job after a month. He then starts work at a local café and provides his new employer with his IRD number.

At the end of the tax year, Inland Revenue will prepare a pre-populated account for Roger but cannot include his wages from the library. That income, although paid to Roger and reported to Inland Revenue, may not be able to be allocated to him without an IRD number. The account therefore only contains his wages from the café.

In this case, although Roger only earns PAYE income, which is generally a type of "reportable income", the wages he earned from the library are treated as "other income as the requirement to provide the employer with his IRD number was not met. This means Roger is obliged to contact Inland Revenue to provide this information.

An exception to this rule exists for income which is earned jointly, such as interest income of holders of joint bank accounts, if the Commissioner is able to allocate the amounts as between the individuals. This could be the case where two individuals own a bank deposit investment in equal shares, and the Commissioner is made aware that the interest earned from the deposit is to be allocated on that basis.

Other income

Per section 22D(4), "other income" is an individual's income other than their reportable income. Schedule 8, Part A, table 1 lists the types of "other income" that must be reported to Inland Revenue. These include:

- income from a New Zealand estate or trust;
- income with a foreign source;
- income from a partnership;
- income from a look-through company;
- income from rents;
- income from self-employment;
- employee share scheme income that is not reportable income; and
- other income, including income from a disposal of property that is not otherwise included in reportable income.

In accordance with new section 22K(1) an individual has no obligation to provide information for a tax year if they derive $200 or less of other income in the corresponding income year.

Qualifying individual

The distinction between the types of income an individual earns is important because it determines obligations under the new individuals' income tax process. Section 22D(2) introduces the term "qualifying individual" which means an individual who only earns reportable income for an income year and has no other income information that must be provided to Inland Revenue. Qualifying individuals have different obligations from other individuals and are eligible for certain concessions. These concepts will be explained in greater detail later in this special report.

Pre-populated account

New section 22D(5) defines a pre-populated account as one provided by Inland Revenue to an individual for a tax year containing the reportable information held by the Commissioner, including any income information provided by the individual; and quantifying the amount of reportable income and other income derived by the individual for the income year.

New section 22E(1) requires Inland Revenue to include in the individual's pre-populated account for the tax year the information that Inland Revenue holds with respect to reportable income and other income that the Commissioner considers has been derived by the individual for the tax year. This requirement is limited to the extent that the information is both available and relevant to the individual's assessment for the tax year (section 22E(2)).

Section 22E(3) provides that an individual who has no reportable income for a tax year may ask the Commissioner to make a pre-populated account with a zero balance available so that they can provide their income information for the tax year. In practice, an individual can go into their income summary online via myIR and add their income type (for example, self-employment income) and select a start date. Once the individual has updated their income sources the account will be created for them to complete.

Section 22M requires Inland Revenue to establish an electronic form and means of communication as well as a non-electronic form or mode of delivery to allow an individual to provide other income information to Inland Revenue. This will enable taxpayers to submit information either electronically or by post which will be populated into the taxpayer's account for the tax year.

Final account

Section 22D(6) defines a final account as a pre-populated account that has been finalised under section 22HB. Section 22I(1) provides that a final account is treated as a return of income and an income tax assessment. In accordance with 22I(2), the assessment is treated as being made on the date on which the individual's pre-populated account is finalised for the tax year.

The way in which a pre-populated account is "finalised" will be discussed in greater detail later on in this special report.

An individual's income tax assessment (sections 22F, 22H and 22I)

The purpose of this section is to explain how an individual's income tax assessment arises, and to explain the obligations an individual may have in relation to this assessment. This section will consider:

- an individual's obligations to provide information (section 22F); and
- finalising accounts and the assessment process (sections 22H and 22I).

Information requirements – Section 22F

Before an individual's tax position can be finalised, it is important to ensure that the individual's pre-populated account accurately records the individual's income for the tax year. Section 22F outlines the circumstances in which an individual must provide income information to Inland Revenue. This explains to individuals what their obligations are and when they do not have to do anything.

Qualifying individual

A "qualifying individual" is generally not required to provide any income information to Inland Revenue and in most cases their tax position will be squared up automatically without them having to do anything.

Example 2: John

John earns a salary of $70,000 per annum. His employer deducts PAYE correctly and remits this to Inland Revenue. John does not earn any other income.

Per section 22E, the Commissioner includes this income information in John's pre-populated account for the tax year. As Inland Revenue has no information that suggests John might be earning other income or reason to suspect the reportable income is incorrect, the Commissioner is satisfied that the information set out in John's pre-populated account correctly and completely records his income for the tax year and, at the end of the tax year, finalises his account in accordance with section 22H(1).

John is not required to do anything and will receive an email notification informing him that his notice of assessment is available via myIR. The notice of assessment informs John that Inland Revenue has calculated his assessment and that, in his case, he has no further tax to pay and is not due a tax refund as the correct tax was withheld by his employer.

Although in most cases a qualifying individual will not be required to provide income information to Inland Revenue, section 22F(2) provides an exception for an individual who knows or might reasonably be expected to have known that an amount of income should properly be included in their final account for the tax year, but it is not. In that case the individual will be obligated to provide that information to Inland Revenue.

Example 3: Adam

Adam works part-time at the local supermarket, and as he really loves cars and is a keen mechanic, in his spare time he fixes cars for his friend Brad's auto garage. Adam gave Brad his IRD number and tax code when he first started at the garage, but he is not sure whether Brad accounts properly for any PAYE on his earnings as Brad is not an accountant and he's never seen a pay slip. But since he gets such a good wage and Brad is a mate, he just never asks Brad about it.

In July Adam mentions his recent tax refund to Brad, as he was so impressed it was sorted for him by IR, and Brad tells him that he doesn't account for any PAYE on what he pays Adam for his work at the garage.

When he gets home that day Adam is worried that not enough tax is being paid, so he logs in to his myIR account to check his earnings for the previous tax year. Sure enough he can see his supermarket earnings are correctly recorded, but the account does not show any of his income from the garage.

In this case the income he has earned as a mechanic is untaxed reportable income, and Adam knows that there is income missing (the earnings from the garage) section s22F(2) applies. This puts an obligation on Adam to tell IR about his missing income. If he does not tell IR Adam would be breach of s22F(2) as he knows, or might reasonably be expected to have known, that an amount of income should properly be included in his final account for the tax year but is not.

In this situation, Adam should inform Inland Revenue of the income information that is missing from his account. It is an absolute liability offence under section 143(1)(b) to not provide the Commissioner with information when required by law. Accordingly, Adam will be subject to penalties and interest on this undisclosed income if he does not inform Inland Revenue and Inland Revenue later finds out about the income.

If the Commissioner considers an individual's account is incorrect or incomplete despite containing all the relevant reportable income information, for example because the Commissioner believes the individual has other income which needs to be included, she would not finalise the account. Instead, the individual's assessment will be "suspended" for a period of time and the Commissioner will contact the individual to ask them to provide this further information. This will be discussed in greater detail later in this special report.

"Other income" earner

If an individual earns "other income", section 22F(1) requires that individual, subject to the $200 *de minimis* threshold in section 22K(1), to provide to the Commissioner their "other income" information for the tax year. This applies irrespective of whether the individual also has "reportable income" or not. This information is then included in the individual's pre-populated account for the tax year.

Income that a person receives under an employee share scheme which their employer has correctly recorded in their relevant employment income information is not treated as other income.

Example 4: Ian

Ian works part-time as a mechanic. To supplement his income, Ian starts his own lawn mowing business on 1 March 2019. For the first month, Ian only earns $188 in income from this venture. This means that, for the tax year ending 31 March 2019, Ian has less than $200 of "other income" and is therefore not required to provide this information to Inland Revenue.

If Ian's lawn mowing business grew in the following tax year, and he earned $8,000. The entire amount would need to be reported to Inland Revenue in his account for the year.

Finalising accounts and the assessment process (section 22H and 22I)

As previously mentioned, new section 22I(1) provides that a final account is treated as a return of income and an income tax assessment. In accordance with 22I(2), the assessment is treated as being made on the date on which the individual's pre-populated account is finalised for the tax year. The finalising of accounts is governed by the process set out below. When an account is finalised, section 22I(4) requires the Commissioner to notify an individual that their assessment is treated as having been made.

Assessments for qualifying individuals (section 22H(1) and 22H(3))

For qualifying individuals, section 22H(1) provides that the Commissioner may finalise the individual's pre-populated account for the tax year when the Commissioner is satisfied that the income information set out in the pre-populated account correctly and completely records their income for the corresponding income year. If the Commissioner requests information from a qualifying individual, the individual may when providing that information also correct any errors in their reportable income before finalising the account by confirming the correctness of their pre-populated account (22H(3)).

From an operational standpoint, the Commissioner intends to finalise the assessments of qualifying individuals in batches, starting from early May and running through June. When an individual's income tax assessment is finalised, Inland Revenue will notify the individual accordingly.

Example 5: Lauren

Lauren earns a salary as an accountant. This is the only "reportable" income information that Inland Revenue has received for Lauren. Inland Revenue considers Lauren's activity for previous tax years and notes that she has never filed an IR3 return and has never earned "other income". There is no other information that Inland Revenue holds that suggests Lauren has any other earnings or that the reportable income received is incorrect or incomplete.

On this basis, Inland Revenue is satisfied that the income information set out in Lauren's pre-populated account correctly and completely records her income for the corresponding income year.

Inland Revenue therefore finalises Lauren's pre-populated account on 15 May 2019 for the tax year ending 31 March 2019. Lauren is not required to do anything and will receive an email notification informing her that her notice of assessment is available via myIR. The notice of assessment informs Lauren that Inland Revenue have calculated her assessment and that, in her case, she has no further tax to pay and is not due a refund as her employer withheld the correct amount of tax on her behalf.

Assessments for other individuals (section 22H(2))

Section 22H(2) provides that an individual other than a qualifying individual, may adjust their pre-populated account to provide other income information and correct errors at any time prior to 7 July following the end of the tax year, or later if they have an extension of time to file their return. The individual may also then finalise their account by confirming that the income information in the account correctly and completely records their income for the corresponding tax year.

Example 6: Roman

Roman studies at a university in Wellington and works part time at a local supermarket earning wages. When university is over for the year, Roman goes back home to Christchurch. For the last few years, Roman has operated a car washing business over the holiday period which nets him about $1,800 in additional income. Roman has filed an IR3 return for the previous tax years to account for this additional income.

On 1 April 2019, Roman's pre-populated account only includes his supermarket wages which have been reported to Inland Revenue. Based on Roman's past returns, he has been an earner of "other income" in past tax years so Inland Revenue does not automatically finalise Roman's account and instead prompts Roman to provide the additional information about his business earnings for the year.

On 15 June 2019 Roman logs into myIR and updates his pre-populated account to include his business income. Roman then confirms that his pre-populated account is complete and correct. Roman's account is finalised and his tax assessment crystallises, he is sent a notice of assessment which sets out the amount of tax he has left to pay.

Assessments when Inland Revenue is not satisfied that the information is correct and complete

If an individual does not provide the required information relating to their "other income", the Commissioner can make an assessment of the amount of income that the Commissioner considers ought to be subject to tax by issuing a default assessment under section 106(1). This is because an individual who failed to provide the required information is treated as having failed to file their return.

Similarly, if the Commissioner is satisfied that the income information provided in a final account for a tax year is not likely to be correct, the Commissioner may raise a default assessment per section 106(1A).

Section 106(1B) provides that tax assessed under section 106(1A) is payable by the individual unless the individual disputes the assessment under section 89D. Section 89D(2B) requires an individual to first amend their final account before disputing the assessment as described in 22I(3).

Default assessments will be discussed in greater detail under the 'Disputes resolution and error correction' section for both qualifying and other individuals.

Proportionate extension of time for taxpayers due to system issues (amended section 37)

Section 37 has been amended to provide an additional extension of time to a date advised by the Commissioner if a systems issue arises for an Inland Revenue digital platform that results in a taxpayer being prevented from, or being otherwise hindered or disadvantaged in, providing the required return or income information.

This proportionate extension of time applies to "a person or class of persons" and therefore extends outside the scope of the individuals' rules (that is it applies to entities such as companies as well). If such a systems issue arises, the Commissioner will make the extension available, as appropriate.

Assessments for non-resident individuals

Non-resident individuals with New Zealand sourced income have an obligation to pay tax in New Zealand on that income, under existing laws. The new individuals' end-of-year process does not alter these obligations.

For non-resident individuals who have New Zealand reportable income, Inland Revenue will follow the standard pre-population process and will generate an account containing income information for the New Zealand sourced amounts.

An example is employment income with a source in New Zealand, which is subject to PAYE irrespective of the residence of the individual.

Non-residents, who earn other income and would ordinarily have been required to file an IR3NR, will continue to have an obligation to provide this information to Inland Revenue and to complete the required assessment to account for tax due on New Zealand sourced "other income".

Disputes resolution and error correction

This section sets out how an individual can correct errors in their income information at different stages throughout the process and how the dispute resolution rules apply within the context of the new individuals' income tax rules.

The main way in which the approach to disputes is different under the new individuals' income tax rules is that there are now mechanisms in the law that allow for an assessment, and for errors in general, to be amended more easily and without going through the formal disputes process. The following section will set out the new error correction rules and outline how they are integrated within the disputes resolution process.

Qualifying individuals

A qualifying individual can amend their assessment, or have their assessment amended by the Commissioner, under the new error correction provisions and the existing dispute resolution process. This section will cover the following in relation to qualifying individuals:

1. Correction of pre-assessment errors by the individual;
2. Correction of pre-assessment errors by the Commissioner;
3. Correction of post-assessment errors by the individual;
4. Correction of post-assessment errors by the Commissioner;
5. Default assessments;
6. Formal disputes process commencing with a notice of proposed adjustment (NOPA) issued by the taxpayer;
7. Later requests for changes by individuals.

New section 22G sets out the process for correcting errors in respect of a taxpayer's account for a tax year when information is either missing or incorrect.

1. Correction of pre-assessment errors by individuals (section 22G)

Section 22G(2) provides that an individual can amend income information in their pre-populated account at any time before it is finalised under section 22H. This provision applies to both "reportable" and "other income" earners. It is noted that the mechanism through which an account becomes finalised differs between "reportable" and "other income" earners and therefore the timeframes for pre-assessment error correction may differ from taxpayer to taxpayer.

Individuals will be able to view their income information, which will be used to pre-populate their account after year end, at any point during the year by logging into the their MyIR. Any errors in this income information can be corrected by contacting Inland Revenue.

Section 22H(2) provides that an individual other than a qualifying individual may adjust their pre-populated account to provide other income information and correct errors any time prior to 7 July following the end of the tax year, or longer if they have an extension of time (being the due date by which they should file their return).

Example 7: Alyssa and Zane

Alyssa and Zane are both reportable income earners. Alyssa works in marketing and Zane works in journalism. Alyssa's assessment for the 2018–19 tax year is finalised on 15 May 2019 and Zane's on 1 June 2019. This means that Zane has an additional two weeks to correct any errors in his pre-populated account under 22G(2) than Alyssa. Due to the post-assessment error correction provisions for qualifying individuals, all qualifying individuals may amend their assessment up until their terminal tax date without being exposed to penalties or interest. If Alyssa didn't have a chance to make an amendment to her pre-populated account before it is finalised, she will have time to do so afterwards with the same effect.

As neither Alyssa or Zane are obliged to check their pre-populated accounts unless they know, or might reasonably have known, that the account will be incorrect or will omit information, the difference in timing is not likely to affect the correctness of their assessments.

2. Correction of pre-assessment errors by the Commissioner (Section 22G)

Section 22G(5) provides that the Commissioner may amend information in an individual's pre-populated account to correct errors. The Commissioner must notify the individual of any amendment. This provision applies to both reportable and other income earners.

During the year, the Commissioner will update income information contained in the pre-populated account as it is received. Changes that the Commissioner makes to income information before the end of the tax year (and before an assessment arises) will be available to view online during the year and will be included in the pre-populated account prepared at the end of the year. Inland Revenue is unlikely to issue additional paper notifications to non-digital customers each time additional income information is received during the year, as that would result in undue administrative and compliance costs.

Post year-end changes will need to be separately communicated to individuals, particularly for other income earners who must provide additional income information to Inland Revenue. That is because any changes to the reportable income information contained in the pre-populated account would need to be checked by the individual as the assessment can only arise, per section 22H(2), if the individual considers the account to correctly and completely record their income for the year. For this reason, changes made after the end of the tax year, for example to reflect updated information in employment income information will be notified more directly.

3. Correction of post-assessment errors by qualifying individuals (Section 22G)

Section 22G(3) provides that a qualifying individual or an individual who is **treated as a qualifying individual** may amend the income information in their final account at any time before their terminal tax date for the tax year. The amended information forms a new assessment and any earlier assessment for the tax year is regarded as not having been made.

This means that when a taxpayer, who is a qualifying individual or is mistakenly treated as such, amends their assessment under section 22G(3) prior to their terminal tax date, they will not be subject to penalties or interest (unless they are subject to the provisional tax regime). The changes are treated as the initial assessment rather than an amendment to the original assessment which the Commissioner finalised. Changes made to section 120C, which governs the day that interest starts for the purposes of the Use of Money Interest (UOMI) rules, ensure that interest does not start until the day after the payment of tax is due.

The due date for terminal tax is generally 7 February following the end of the tax year for taxpayers with a standard balance date (tax year 1 April – 31 March). If a taxpayer with a standard balance date is linked to a tax agent, the terminal tax date will be 7 April of the following year. This applies even if the initial Commissioner finalised assessment results in a refund being paid to a taxpayer and the subsequent assessment results in tax to pay. Any disbursed refund that has to be repaid will be treated as due on the taxpayer's terminal tax date.

Notwithstanding a taxpayer's ability to correct their income information under section 22G(3), section 22G(4) clarifies that if the Commissioner has reason to believe the amended information is incorrect, the Commissioner can decide not to accept the taxpayer's amendment and issue a default assessment under section 106. This process protects the integrity of the tax system by ensuring that the Commissioner's assessment is not immediately displaced with an incorrect assessment. Instead disputed amendments of this nature are processed under the existing rules, discussed further below.

Example 8a: Lauren

Lauren, as mentioned in a previous example, is an accountant earning a salary. The only income information Inland Revenue has received in relation to Lauren for the tax year is her salary income, and her earnings in previous tax years have always been consistent with this position. As such, Inland Revenue has no reason not to be satisfied that the information in Lauren's pre-populated account is correct and complete and her account is therefore finalised on 15 May 2019 in accordance with section 22H.

What Inland Revenue does not know is that Lauren earnt $2,000 during the 2018–19 tax year regularly babysitting for a friend. On 1 November 2019 Lauren logs into her myIR to add this "other income" information.

Although by virtue of adding this "other income" information into her final account Lauren is no longer a "qualifying individual", she was **treated** by Inland Revenue as a qualifying individual and therefore still falls within section 22G(3) for the correction of post-assessment errors by qualifying individuals. This means that when Lauren logs in on 1 November 2019 to add additional income information, this is not treated as an amended assessment but rather as a new assessment. The assessment that resulted when Inland Revenue finalised her account on 15 May 2019 is regarded as not having been made. Lauren will now have until her terminal tax date to pay any resultant tax bill and will not be subject to any penalties or interest provided that the amount due is paid on time.

In the following year she is likely to be prompted to provide additional income information so that Inland Revenue can confirm whether she has continued to earn other income from babysitting.

Example 8b: Olivia

Lauren's sister, Olivia, works at the same accounting firm and earns a salary. Olivia purchased a rental property in 2015 which Inland Revenue are aware of due to Olivia's IR3 returns for the preceding tax years showing a return of rental income. As such, Inland Revenue categorises Olivia as an "other income" earner who is required to provide more information to Inland Revenue. This means that Olivia will not be subject to the automatic process that applies to reportable income earners.

New section 22H(2) requires an "other income" earner to adjust their pre-populated account to provide other income information and correct any errors by no later than 7 July following the end of the tax year. This means that, for the tax year ending 31 March 2019, a taxpayer with a standard balance date who earns "other income" has to provide this information by no later than 7 July 2019. In the event that the information is not provided by this date, Inland Revenue can issue a default assessment in accordance with section 106.

What Inland Revenue does not know is that Olivia sold the rental property in March 2018, prior to the commencement of the 2018–19 tax year. Olivia's only income for the 2018–19 tax year is her salary as an accountant, which means she is actually a reportable income earner for the 2018–19 tax year.

Based on the above, Olivia does not provide "other income" information and finalise her account by 7 July 2019 as expected by Inland Revenue. Inland Revenue does not issue Olivia with a default assessment immediately, although it has the scope to do so under section 106, and instead contacts Olivia to request further information. What happens next depends on what Olivia decides to do:

(i) Olivia contacts Inland Revenue and finalises the assessment

If Olivia responds to Inland Revenue and provides the required information, telling Inland Revenue that she has sold the property and has no rental income this year, she can finalise the account. The finalisation is late and, as such, Olivia may be charged a late filing penalty per section 139A, for failing to complete her final account (provide her return) on time.

As Olivia has sold the property, she will no longer be an "other income" earner, so for the following tax year she is likely to have her assessment finalised by Inland Revenue as a qualifying individual.

(ii) Olivia does not respond: default assessment issued by Inland Revenue

If Inland Revenue decides to issue Olivia with a default assessment prior to her terminal tax date 7 February 2020, the assessment can include an amount of rental income that the Commissioner considers, based on available information, that Olivia has earned in the tax year. Tax on this amount will be payable per section 106(1B), as noted above.

As the Commissioner is unaware of the sale Olivia can contact Inland Revenue and ask for an amendment to her assessment by providing the required information to correct the account. In this case she can demonstrate that she had no rental income as she sold the property. The Commissioner would therefore amend the assessment per section 113.

If there was disagreement between the Commissioner and Olivia as to whether any rental income ought to be included in Olivia's assessment, Olivia would need to raise a dispute to change the assessment. Section 89D(2B) requires an individual to first amend the assessment by making an adjustment to their final account for the tax year before they are able to commence a dispute by issuing a NOPA. This is consistent with the previous rules which required an individual who had been issued a default assessment because they failed to file their tax return on time, to first file the missing return before being able to commence a dispute.

Olivia must make the adjustment to her final account by no later than the time of filing the NOPA and both of these actions must be completed within the response period (four months from the issue of the default assessment).

Usually a taxpayer will discuss the correctness of the default assessment with the Commissioner before making an adjustment to their final account or engaging in the disputes process. However, a taxpayer is required to adjust their final account and issue a NOPA if the Commissioner does not accept the taxpayer's proposed changes to their assessment within the response period. As noted above, in this case the Commissioner is unlikely to decline Olivia's request to amend her assessment, as it is clear she has sold the property and has no rental income, therefore a dispute is unnecessary.

Example 8c: Ruairi

When Olivia sold her rental property in March 2018, she sold it to her brother, Ruairi. The sale and purchase was settled on 2 March 2018. Ruairi, unsurprisingly, is also an accountant who works at the same firm as his sisters.

The only income information that Inland Revenue has received in relation to Ruairi for the 2018–19 tax year is his salary income. – His earnings in previous tax years have always been consistent with this position. As such, Inland Revenue has no reason to consider that the information in Ruairi's pre-populated account is incorrect so finalises his account on 20 May 2019 in accordance with section 22H.

What Inland Revenue does not know however, is that by virtue of his rental property purchase on 2 March 2018, Ruairi has a month of rental income that he needs to return. Ruairi is therefore an "other income" earner for the 2018–19 tax year. Ruairi does not have an extension of time and his return filing due date is therefore 7 July 2019 for the 2018–19 tax year.

Section 22G(3) provides that a qualifying individual or an individual who is treated as a qualifying individual may amend the income information in their final account at any time before their terminal tax date for the tax year. Ruairi has been treated as a qualifying individual by Inland Revenue and therefore can rely on section 22G(3). Ruairi can amend his return and provide what he considers to be his correct and complete income for the 2018–19 income year at any point before 7 February 2020. This will be treated as a new assessment, and he has until 7 February to pay the additional taxes due.

Although in most cases a qualifying individual or an individual who is treated as a qualifying individual, may amend the income information in their final account before the terminal tax date, there are limited circumstances in which a provisional taxpayer will be subject to UOMI.

Example 9: Jeff

Lauren, Olivia and Ruairi have a brother called Jeff who also works at the accounting firm and earns salary and wages. On 1 April 2018, Jeff also commences a start-up technology venture, which he operates in his own capacity. Although Jeff is only working on his venture part time, it is successful and he earns an additional $200,000 for the 2018-19 tax year.

Inland Revenue reviews Jeff's income information at the end of the 2018–19 tax year and based on the information held for Jeff, the Commissioner is satisfied that the information contained in his pre-populated account correctly and completely records Jeff's income for that tax year. Inland Revenue therefore finalises Jeff's pre-populated account and it becomes an assessment on 15 May 2019.

New section 22G(3) provides that a qualifying individual, or an individual who is treated as a qualifying individual, may amend the income information in their final account at any time before their terminal tax date for the tax year. Although Jeff clearly has "other income" that he needs to provide, he has been treated as a qualifying individual and therefore has until his terminal tax date (7 February 2020) to provide any additional information and amend his tax position for the year.

Jeff logs into myIR on 1 February 2020 and updates his tax position to include an additional $200,000 in income and finalises his account for the tax year. Although this is treated as a new assessment for the purposes of section 22G(3), Jeff is liable to pay provisional tax as he derived untaxed income during the tax year which caused him to have residual income tax (RIT) of more than $2,500 at year-end. Due to his level of untaxed income, Jeff's RIT exceeds $60,000 and therefore he does not qualify for the provisional tax safe harbour in section 120KE. This means that provisional tax instalments were due for one third of his RIT on each of the missed instalment dates (being 28 August 2018, 15 January 2019 and 7 May 2019 for Jeff (as he has a standard 31 March balance date). As Jeff did not pay these instalments when they were due, he is subject to UOMI.

For the sake of completeness, for the 2019–20 income tax year, because Jeff has filed his 2018–19 tax return after the first two provisional tax instalment dates for that year, he can pay provisional tax equalling his 2020 RIT on the third instalment date, being 7 May 2020 and not have to pay UOMI in that year.

4. *Correction of post-assessment errors by the Commissioner for qualifying individuals*

Section 22G(6) provides that the Commissioner may amend information in a qualifying individual's final account for the tax year to correct errors in the information at any time before the end of the time bar period per section 108(1), notifying the individual of the amendment.

The time bar prevents the Commissioner from amending an assessment to increase the tax payable if four years have passed from the end of the tax year in which the taxpayer provides the return. This does not apply if a return is fraudulent or misleading.

Section 22G(6) allows the Commissioner to correct finalised assessments in cases when the reportable income information provided to Inland Revenue is corrected after the end of the tax year, resulting in incorrect individual assessments. The Commissioner can correct the final accounts without first having to issue a NOPA due to amended section 89C(1) which references amendments made per section 22G(6).

This section is limited to qualifying individuals because it reflects the way in which qualifying individuals' assessments are finalised by the Commissioner.

This means that if the Commissioner sought to amend information contained in the account of an individual with other income who finalises their own assessment per section 22H(2), the usual NOPA process would need to be followed.

Example 10: Rachel

Rachel is a qualifying individual earning salary and wages. Her tax position is automatically calculated by Inland Revenue for the 2018–19 tax year and it is determined that she has tax payable of $100. Rachel pays this amount prior to her terminal tax date of 7 February 2020.

On 1 March 2020 Inland Revenue realises that a mistake has been made in calculating Rachel's tax position for the 2018–19 tax year because her employer contacts Inland Revenue to correct several periods of employment income information. Instead of having $100 tax payable, Rachel actually had $300 of tax payable, because her employment income information has been incorrectly reported.

Section 22G(6) means that Inland Revenue can amend Rachel's return and issues her with a tax bill for the additional $200. Rachel is given an additional 30 days, commencing on 2 March 2020, to pay this additional $200 (see section 142AB).

5. Default assessment

A qualifying individual's income tax assessment is typically automated. In most cases, the Commissioner will satisfy herself that the information in an individual's pre-populated account, which will have been provided to her by way of third-party reporting during the year, is correct and complete.

Where the Commissioner is not satisfied that the information is correct and complete, she can request that the individual provides more information under section 22H(3). The individual can then simply finalise the account by confirming that the income information is correct and complete or correct any errors in their reportable income and finalise the account by confirming that the corrected income information is correct and complete. Section 22G(4) provides that where the Commissioner has reason to believe that the amended information is incorrect, she can decline to accept the information and issue a default assessment under section 106. Amended section 89D(2B) provides that an individual can only dispute a default assessment by making an adjustment to their final account for the tax year.

It is therefore expected that default assessments will only occur for qualifying individuals in limited circumstances. These include where an individual has been miscategorised as an "other income" earner, or where Inland Revenue is unsure about some of the individual's information and has requested further clarifying information but the individual has failed to provide an adequate response.

Example 11: Pamela

Pamela is a salary earner who works in a large corporate office as an accountant. Inland Revenue knows that in previous tax years, Pamela has claimed a deduction of $1,000 for income protection insurance. Inland Revenue therefore has reason to believe that Pamela may intend to claim this deduction for the current (2018–19) tax year as well. Instead of immediately finalising Pamela's income tax assessment, since she is a qualifying individual, Inland Revenue sends Pamela a letter noting that she has previously claimed income protection insurance and gives her a period of time to respond and provide the deduction information if it is again relevant to this tax year.

When Pamela responds confirming that she has this information, her assessment will be finalised based on the information she provides and confirmed as her complete and correct position for the tax year as set out in section 22H(3).

If she does not respond in the given time period, Inland Revenue can progress the assessment on the basis that Pamela must not have any income protection insurance to claim for the 2018–19 tax year, otherwise she would have responded to the letter as she has done in the past.

For the 2018–19 income year, Pamela does not make a deduction claim for the usual $1,000 for income protection insurance, but instead, when prompted by Inland Revenue, claims a deduction for $100,000. She then confirms this as her correct and complete tax position for the tax year.

As the $100,000 claim is far more than Pamela has claimed previously, Inland Revenue may ask Pamela whether this is a mistake. Pamela is on holiday and does not receive the correspondence from Inland Revenue.

Inland Revenue has reason to believe that the amended information is incorrect. This is because in previous years Pamela has only claimed $1,000 in income protection insurance and her salary has remained roughly the same.

Because Inland Revenue cannot get a hold of Pamela, the Commissioner issues a default assessment correcting the deduction claimed to $1,000 and issues a NOPA detailing the change.

When Pamela returns from her holiday she sees the correspondence, realises that she made a mistake and agrees to the proposed adjustment.

6. *Formal disputes process commencing with a notice of proposed adjustment issued by the taxpayer or Commissioner*

As a starting point, it is noted that the Commissioner is unlikely to issue a NOPA in respect of a qualifying individual. As previously discussed, the Commissioner is not required to issue a NOPA to amend a qualifying individual's tax position post-assessment. Under section 22G(6) the Commissioner can amend a qualifying individual's final account for a tax year to correct errors in the reportable income information at any time before the end of the time bar period, notifying the individual of the amendment.

Although a qualifying individual is able to commence the formal disputes process by issuing a notice of proposed adjustment, it is expected that this will happen rarely due to the qualifying individuals having up to their terminal tax date under the new error correction provisions to amend their assessments. Section 22G(3) allows a qualifying individual until their terminal tax date to correct any information in their final account, treating any earlier assessment as not having been made. This provides the taxpayer with a longer period of time to ensure they get their assessment right and allows them to amend their assessment in a much more flexible way than was provided for previously.

In the event that a qualifying individual wishes to commence the formal dispute process, the taxpayer can issue a NOPA under section 89DA of the TAA. The taxpayer must issue the NOPA within the applicable "response period" as defined in section 89AB. Generally, this will be within the four-month period that starts on the date that the Commissioner finalised the taxpayer's account for the tax year. However, this four-month period can change due to the application of section 22G(3), which allows a qualifying individual to amend their assessment at any time up until their terminal tax date, treating any earlier assessment as not having been made.

Example 12: Rangi and Siobhan

Example 1: Rangi's pre-populated account was finalised on 15 May 2019 (assessment date) for the 2018–19 tax year. Rangi did not make any amendments to his assessment under section 22G(3) prior to his terminal tax date of 7 February 2020. This means that, if Rangi realised some of his income information was incorrect on 8 February 2020, Rangi would be unable to commence a formal dispute by issuing a NOPA. This is because section 89AB requires the NOPA to be issued within the four-month period starting on the date of assessment, which in Rangi's case ended on 15 September 2019.

It is noted that Rangi is not precluded from requesting an amendment to his assessment under section 22G(8) and section 113. Section 22G(8) provides that, after their terminal tax date, an individual may ask the Commissioner to amend information contained in their final account for the tax year under section 113. This will be discussed on the following pages under the heading "later requests for changes by individuals".

Example 2: Siobhan's pre-populated account was also finalised on 15 May 2019 (assessment date) for the 2018–19 tax year. Siobhan noticed an error in her income information and therefore made an amendment to her assessment under section 22G(3) on 1 February 2020, which is prior to her terminal tax date of 7 February 2020. This is treated as a new assessment . This means that, if Siobhan realised that further income information was incorrect on 8 February 2020, she would be able to commence a formal dispute by issuing a NOPA. Because her assessment was deemed to occur on 1 February 2020, the applicable response period for issuing a NOPA under section 89D(1) would not expire until 1 June 2020.

However, due to the complexity of the formal disputes process, it would be easier for Siobhan to simply ask the Commissioner to amend her assessment using sections 22G(8) and 113.

The application of the error correction provisions means that it is unlikely that a qualifying individual will need to use the formal disputes process and issue a NOPA. Should a qualifying individual issue a NOPA, then the disputes process that follows is left unchanged by the transition from the previous rules to the new individuals' income tax rules.

Section 89F governs the information required to be included in a taxpayer's NOPA. The remaining stages of the disputes resolution process remain unchanged. If the Commissioner disagrees with the taxpayer's proposed adjustment, then the Commissioner must advise the taxpayer as such and issue a notice of response (section 89G(1)). The process then continues as under existing law, and the stages of the disputes resolution process include an administrative phase, disclosure, a potential adjudication and then, potentially, an amended assessment. For a more in depth look at the dispute resolution process see *SPS 16/06 Disputes resolution process commenced by a taxpayer, SPS 16/05, Disputes resolution process commenced by the Commissioner of Inland Revenue and SPS 16/01 Requests to amend assessments*.

7. Later requests for changes by individuals

When an individual wishes to amend the information in their final account after their terminal tax date, section 22G(8) provides that the individual may ask the Commissioner to amend their final account under section 113.

Section 113 provides the Commissioner with a discretionary power. The Commissioner will, subject to the time bar, generally agree to amend assessments that are requested when the result can be clearly shown to be correct. In determining whether to exercise the discretion, the Commissioner will evaluate an amendment request using the care and management principles in sections 6 and 6A. For more information see *SPS 16/01 Requests to amend assessments*.

As has already been noted, a taxpayer can amend the information in their final account prior to their terminal tax date by amending their assessment under new section 22G(3) where they are a qualifying individual. If a qualifying individual wishes to amend their assessment after that date, they must request the Commissioner make an amendment under section 113. Although a qualifying individual is not permitted to issue a NOPA after four months post-assessment, they are given a longer period of time, up until their terminal tax date, to amend any errors and the corrected information will constitute a fresh assessment. This provision provides more flexibility to the taxpayer by avoiding the highly structured disputes process.

Other individuals

An individual will fall into the category of "other income" earner where they earn "other income" above the $200 *de minimis* threshold. This means they will be required to provide income information to Inland Revenue. This section will cover the following in relation to individuals who earn "other" income:

1. Correction of pre-assessment errors by the individual

2. Correction of pre-assessment errors by the Commissioner

3. Correction of post-assessment errors by the individual (formal disputes process)

4. Correction of post-assessment errors by the Commissioner (formal disputes process)

5. Default assessments

6. Later requests for changes by individuals

1. Correction of pre-assessment errors by individuals (Section 22G)

Individuals who earn other income can amend income information in their pre-populated account at any time before it is finalised (22G(2)). An individual who earns other income is required to finalise their account by 7 July of the following tax year, or longer if they have an extension of time.

2. Correction of pre-assessment errors by the Commissioner (Section 22G)

Section 22G(5) provides that pre-assessment the Commissioner may amend information in an individual's pre-populated account to correct errors. The Commissioner must notify the individual of any amendment and this will typically be done by providing them with the updated information online and in their pre-populated account at the end of the year.

3. Correction of post-assessment errors by the individual

Section 22G(8) applies to an individual who is an "other income" earner and has finalised their account per section 22H(2), and wishes to amend their assessment after the account has been finalised. This means that they must either request an amendment from the Commissioner per section 113, or they may choose to issue a NOPA if they are still within the applicable response period.

Therefore, to change the assessment, the taxpayer can request that the Commissioner amend their assessment under section 113. Under section 113 the Commissioner has a discretionary power to amend assessments. When a requested amendment can be clearly shown to be correct, such as a simple arithmetic error, the Commissioner will generally agree to the amendment. For more information see *SPS 16/01 – Requests to amend assessments*.

Alternatively, the individual can issue a NOPA but must do so within the applicable response period as defined in section 89AB. Generally, this will be within the four-month period that starts on the date that their assessment was made (this occurs when they finalised their pre-populated account under section 22H(2)). The standard dispute resolution procedures then apply.

4. Correction of post-assessment errors by the Commissioner: other individuals (Section 22H)

When the Commissioner wishes to make an adjustment in relation to an individual other than a qualifying individual, section 22G(2) requires the Commissioner to issue a NOPA under section 89B (subject to the exceptions set out in section 89C, such as if the taxpayer provides a return with a simple mistake or obvious oversight). The new individuals' income tax rules therefore make no change to what would have applied under the old rules for the correction of post-assessment errors. For more in-depth guidance regarding the disputes resolution process as commenced by the Commissioner of Inland Revenue, see *Standard Practice Statement SPS 16/05*.

Example 13: Ben

Ben is a lawyer earning a salary. Ben also owns a rental property and therefore earns rental income as well as his salary. Ben is classified as an "other income" earner for the purposes of the individuals rules. As Ben is not a qualifying individual, if Inland Revenue wished to amend his tax return to increase the amount of tax payable, in most cases a notice of proposed adjustment would need to be issued.

5. Default assessments

Section 22I(3) of the Income Tax Act 2007 provides that if an individual does not satisfy the Commissioner that the income information in their pre-populated account for the tax year correctly and completely records their income for the corresponding income year, the date on which the assessment is treated as being made is the date on which the Commissioner provides a default assessment under section 106 of the Tax Administration Act 1994.

Where a default assessment has been made, an "other income" earner can dispute this by:

- adjusting their final account under section 89D(2B); and
- issuing a NOPA to the Commissioner in respect of the default assessment within the applicable response period. Generally, this will be within the four-month period that starts on the date that the Commissioner issues the default assessment.

The standard disputes resolution process then applies. As advised previously, for a more in depth look at the dispute resolution process see SPS 16/06 Disputes resolution process commenced by a taxpayer, *SPS 16/05Disputes resolution process commenced by the Commissioner of Inland Revenue and SPS 16/01 Requests to amend assessments*.

6. Later requests for changes by individuals

As is applicable to a reportable income earner, where an "other income" individual wishes to amend the information in their final account after their applicable response period has expired, section 22G(8) provides that the individual may ask the Commissioner to amend their final account under section 113.

Categorising individual income earners

This section sets out the various groupings that an individual taxpayer may fall into and then, using the above framework as a base, provides a walk-through of what an individual needs to do to meet their obligations in various fact scenarios, and what will happen for them automatically under these new processes.

Individuals will be put into one of three groupings which they may move between over time as their income profile changes. The groupings are:

- Group A (automated process) – the individual earns "reportable income" and IR determines whether the income information it holds for the person is correct. In these cases, the refund or tax to pay will automatically be calculated, assessed and progressed accordingly (that is – refund or tax bill issued).
- Group B – the individual earns reportable income, but IR considers, based on previous returns and other information, that the individual may have other income information that they may need to provide, deductions for example. In these circumstances, the individual will be asked to provide the additional information or confirm that the income information held is correct.
- Group C – while the individual may have reportable income, it is expected that these individuals will also have other income. Individual's that fall into this category will then be required to provide income information – similar to the current IR3 process where a return of income is required.

This special report will deal with each grouping in turn and provide a walk-through of how the new individual's income tax proposals will apply to a taxpayer in each respective grouping, drawing on examples to illustrate how the rules will apply. From the outset, it is important to note that where an individual has a tax agent, communication will be sent directly to the tax agent. If the individual wishes to receive communication from Inland Revenue directly, they must change their mail preferences from their agent to themselves either through MyIR or by contacting Inland Revenue.

The individuals' income tax changes for a "Group A" individual

This section explains how the new individuals' income tax changes will apply to a person who falls within "group A". A "group A" individual is a person who earns reportable income only, for whom Inland Revenue considers that the income information contained in their pre-populated account is correct and complete. This section will cover the following scenarios:

1. Assessment results in a net zero position at year-end
2. Assessments results in a small amount of tax payable that is written off resulting in a net zero position at year-end
3. Assessment results in a tax refund
4. Assessment results in tax to pay
5. Individual amends their pre-populated account pre- assessment
6. Commissioner amends individual's pre-populated account pre-assessment
7. Individual amends their final account post-assessment

8. Commissioner amends individual's account post-assessment

9. The individual requests to amend their assessment after terminal tax

10. Inland Revenue miscategorises which "group" the individual should be in.

Scenario 1: "Group A" taxpayer when tax has been withheld correctly and the year-end tax position is a net zero

> **Example 14: Natalia**
>
> Natalia is on a salary of $70,000 per annum. Her employer deducts PAYE correctly and remits this to Inland Revenue. Natalia does not earn any other income.
>
> Under new section 22E the Commissioner is obliged to include this income information in Natalia's pre-populated account for the tax year. Based on the information Inland Revenue holds, the Commissioner is satisfied that this is all of Natalia's income and finalises Natalia's tax position in accordance with section 22H(1) at the end of the tax year.
>
> Natalia is not required to do anything and is notified of her assessment automatically. The notice of assessment informs Natalia that Inland Revenue has finalised her assessment and that, in her case, she has no further tax to pay and is not due a tax refund.

The above example is the most simple under the new individual income tax rules and is the ideal outcome for a taxpayer that solely earns reportable income. The taxpayer has paid the correct amount of tax throughout the year and has not been left with a tax bill or a refund due at year-end. The tax position has been completed for the individual by the Commissioner and a notice of assessment issued accordingly, without the taxpayer having to interact with Inland Revenue to make this happen.

When will a "Group A" individual's assessment be finalised?

For most taxpayers with a standard 31 March tax year end, assessments are likely to be finalised between May and June. A notice of assessment will be sent out to the taxpayer when their assessment is calculated, whether electronically or by post.

Scenario 2: Assessment for a "Group A" taxpayer results in a small amount of tax payable that is written off resulting in a net zero position at year-end

A taxpayer can also reach a net zero position at year-end where they have a small amount of tax payable that is written off under the new write off rules. This will occur automatically without the taxpayer having to do anything. The write off rules will be discussed in greater detail under the "refunds and tax to pay section" of this special report.

Example 15: Kaylor

Kaylor is a butcher who earns a salary. Kaylor is paid weekly and his employer deducts PAYE each pay day.

Last year, Kaylor's annual salary was $78,000. Each week Kaylor earned $1,500 from which Kaylor's employer withheld $320 PAYE (excluding ACC earners' levy) each pay-day. Because of the day on which his salary is paid, last tax year Kaylor received 53 weekly salary pays in the tax year (a standard tax year has 52 pay-days).

Because the PAYE system is based on 52 weekly pay days occurring in a tax year, Kaylor has a tax shortfall of $175. (He received $79,500 salary income in the tax year, but his weekly PAYE was based on $78,000).

Although Kaylor has a tax shortfall of $175, this will be written off under the write off rules (discussed later). Therefore, just like Natalia in scenario 1, Kaylor is also not required to do anything and will receive a notice of assessment automatically. The notice of assessment will inform Kaylor that Inland Revenue has calculated his assessment and that, in his case, he has no further tax to pay and is not due a refund.

Scenario 3: "Group A" taxpayer due a refund at year-end

As scenario 1 demonstrates, a qualifying individual's income tax assessment will be completed without them having to do anything.

Example 16: Sophie

Sophie earns $35,000 from her main job and $18,000 from her second job ($53,000 total) on which she will pay $10,545 in tax. The $10,545 that Sophie pays in tax is comprised of $1,470 tax paid on the first $14,000 at 10.5%, $3,675 from $14,001–$35,000 taxed at 17.5% and then, because a secondary tax code is applied at her marginal rate, the $18,000 from her second job will be taxed at 30%, resulting in $5,400. The total tax payable on $53,000 of income is actually $8,920 meaning that Sophie is due a refund of $1,625.

Because Inland Revenue has Sophie's current bank account details, once Sophie's tax position is finalised at year-end, her refund will be direct credited to her account and her notice of assessment will inform her of the refund that has been paid out to her automatically.

If Inland Revenue did not have bank account details for Sophie, the refund would be unable to be direct credited. For this reason, it is important that taxpayers keep their bank account details up to date with Inland Revenue to enable any refund due to be paid out automatically.

For the sake of completeness, it is noted that under the new individuals' income tax rules Inland Revenue could proactively recommend that Sophie adopt a tailored tax code to help fix the over taxation caused by the secondary tax code. Had Sophie accepted this and her pattern of earnings remained the same throughout the year, then she would not have been owed a refund at year-end. This is because the tailored tax code would have ensured that the correct amount of tax was withheld during the year, enabling Sophie to have more money throughout the year. Both "pro-active actions" and "tailored tax codes" have their own sections later in this special report.

It is also noted that under the previous personal tax summary rules, a tax payer was required to confirm the correctness of their income statement (PTS) under section RM 5 of the Income Tax Act 2007 before a refund exceeding $600 could be issued to the taxpayer. Under the new rules there is no refund confirmation threshold and refunds of any amount will be paid out automatically. This means that the $1,625.00 owing to Sophie in the above scenario will be paid out to her without her having to do anything specific to request it (providing that she has updated her bank account details with Inland Revenue).

Scenario 4: "Group A" taxpayer with tax to pay at year-end

> **Example 17: Robert**
>
> Robert is an employee earning wages. His tax position is finalised by Inland Revenue for the 2018–19 tax year and it is determined that he has tax payable of $200 that has arisen due to being on an incorrect tax code for a portion of the tax year.
>
> Inland Revenue sends Robert a notice of assessment and also informs him that he has $200 of tax to pay. Robert will have until the terminal tax date of 7 February 2020 to pay this additional amount of tax without incurring any penalties or interest. If Robert has not paid this amount by the terminal tax date, he will be sent a statement of account which will include a late payment penalty and interest owing on the outstanding tax.

The above four examples deal with the most common situations that reportable income earners can expect to experience. Although they outline the experience that the majority of "Group A" individuals will have, there are some situations where these individuals will have further interactions with Inland Revenue in order to ensure the correctness of their income tax assessment.

Scenario 5: Individual amends their pre-populated account pre-assessment

There are times when, due to an error, an individual's pre-populated account may not accurately reflect their income position for a tax year. Individuals are therefore encouraged to log into their myIR account during the year to take a look at the information that has been included and make any corrections when necessary. To enable that the new individuals' income tax rules allow an individual to amend their pre-populated account at any time before it is finalised.

> **Example 18: Charles**
>
> Charles logs into his pre-populated account for the 2018–19 tax year and notices that there is some income for a job he does not recognise. What has likely occurred is that an employer has input a wrong IRD number when calculating their payroll, resulting in the income incorrectly being attributed to Charles.
>
> Under new section 22G(2) Charles is able to amend his pre-populated account at any time before it is finalised, so he contacts Inland Revenue and proposes a correction to the information in his pre-populated account to delete this unknown income source.

Scenario 6: Commissioner amends an individual's pre-populated account pre-assessment

Although a Group A individual is encouraged to log in to myIR during and after the tax year to review their information, the Commissioner is also able to correct any errors to ensure the correctness of the individual's income information. New section 22G(5) provides that the Commissioner may amend information in an individual's pre-populated account for a tax year to correct errors. The Commissioner is required to notify the individual of any amendment made.

> **Example 19: Charles**
>
> Using the example of Charles above, let's assume that Charles did not log into his pre-populated account and notice the incorrect income information, and instead Inland Revenue became aware of the error.
>
> In these circumstances, Inland Revenue would amend Charles's pre-populated account to correct the error and then send Charles a letter to notify him of the amendment.

Scenario 7: Individual amends their account post-assessment

A qualifying individual's pre-populated account will become a final account for a tax year once it is finalised by the Commissioner. New section 22H(1) provides that the Commissioner may finalise the individual's pre-populated account for the tax year once the Commissioner is satisfied that the income information set out in the pre-populated account correctly and completely records their income for the corresponding income year.

As previously discussed, when a "Group A" individual amends their final account prior to their terminal tax date, any earlier assessment for the tax year is regarded as not having been made. The individual will have until terminal tax to pay any resultant tax bill without being subject to penalties or interest.

Example 20: Charles

Again, carrying on with the example of Charles, let's assume that neither Charles nor Inland Revenue noticed that some income information had been incorrectly attributed to Charles and his assessment is finalised for the tax year.

Charles logs into myIR to view his income information for the 2018–19 in July 2019, which is after his income tax assessment for the year has been finalised. Charles notices that some income has been attributed to him for a job that he has never worked for. In accordance with new section 22G(3), Charles is able to amend his assessment at any time prior to his terminal tax date. This amendment will be treated as a new assessment and he will have until his terminal tax date to pay any tax outstanding without being subject to penalties or interest.

Charles amends his assessment to remove the income information. Inland Revenue contacts the employer in question to seek out the correct IRD number for the employee whose income was mistakenly added to Charles' account.

It turns out the extra income should have been paid to Amelia, one of Charles's colleagues. She has also had her account finalised by the Commissioner in June. Using new section 22G(6), the Commissioner amends Amelia's final account to correctly include the missing employment income and withheld PAYE and notifies Amelia of the change made which results in a small refund to Amelia.

Scenario 8: The Commissioner amends the individual's account post-assessment

Under new section 22G(6), the Commissioner may amend information in a qualifying individual's final account for a tax year to correct errors at any time before the end of the time bar period in section 108(1). An amendment made to section 89C(1) ensures that the Commissioner can amend information in the individual's final account without first having to issue a NOPA. As the time bar period extends for 4 years from the end of the tax year in which the return is furnished, the Commissioner can rely on this provision to amend the taxpayer's assessment after their terminal tax date.

Example 21

On 1 March 2021 Inland Revenue discovers, following an audit, that a large employer had been incorrectly accounting for PAYE since the introduction of pay-day filing rules in April 2019. The mistakes resulted from an error in the coding of the payroll software that the employer uses.

Inland Revenue works with the employer over the next few months to identify the extent of the error and finds that, in total, approximately $7.5 million was mistakenly misreported during the period April 2019–March 2021.

The company employs 325 staff across New Zealand and Inland Revenue sets about checking the assessments for the affected employees.

Upon reviewing the assessments, Inland Revenue discovers that the vast majority of the company's employees are qualifying individuals for whom assessments for the year ended March 2020 had been finalised.

To correct the errors made in each of the finalised accounts for these employees, Inland Revenue recalculates the corrected tax positions and amends the final accounts as per section 22G(6). Some employees receive additional refunds which are immediately direct credited, and others small tax bills for which the employees are given additional time to pay as per section 142AB.

For the remaining minority of affected employees who have "other income" and therefore filed returns for the March 2020 year-end, the Commissioner relies on section 22G(8) instead. To amend the assessments, the Commissioner contacts each employee and provides proposed adjustments.

Finally, because the March 2021 assessments have not yet been finalised the Commissioner, uses section 22G(5) to correct the pre-populated accounts of all of the employees and to reverse the mistake in the reported employment income information.

Scenario 9: The individual requests an amendment to their assessment after the terminal tax date

There are some circumstances where a qualifying individual can utilise the formal disputes process to request an amendment to their assessment after their terminal tax date. As previously discussed, this could occur where a taxpayer has amended their assessment under section 22G(3) at some point prior to their terminal tax date and, by virtue of this action resulting in a fresh assessment, the taxpayer may still be within the relevant response period to issue a NOPA.

The above will only occur in rare cases. Usually where an individual wishes to amend the information in their final account after their terminal tax date, they can do so under section 22G(8). Section 22G(8) allows the individual to ask the Commissioner to amend their final account under section 113. The Commissioner will accept the amendment where she is satisfied that the suggested amendment is clearly correct.

There are instances where the Commissioner would refuse to exercise her discretion to amend an assessment under section 113. This could include where the proposed adjustment is merely arguable or involves disputed facts or statutory interpretation or where a taxpayer is attempting to circumvent the disputes process. For further information please consult *SPS 16/01: Requests to amend assessments*.

Example 22: Caleb

Caleb works as a mechanic and earns wages. For the last pay period of the 2018–19 tax year, Caleb received an end of year bonus of $800. This bonus is treated as a lump sum payment and is taxed in accordance with the extra pay rules. Although the payment was only $800, an error occurs which results in the payment being remitted to Inland Revenue as a $900 payment. This means that, as far as Inland Revenue is concerned, Caleb has been undertaxed. His employer withheld tax based on an $800 payment when, according to the information remitted to Inland Revenue, Caleb was paid $900.

Caleb is not aware of this error. When his tax position is finalised on 1 June 2019, Caleb has a small amount of tax payable. This amount is under $50 and therefore written off under section 22J.

Caleb becomes aware of the error on 15 March 2020, which is after his terminal tax date of 7 February 2020. Although the error has not had any material effect on the amount of tax Caleb had to pay for the tax year, Caleb wants his tax position to be accurate.

Under section 113 Caleb requests that the Commissioner makes an adjustment to Caleb's tax return for the 2018–19 tax year. The Commissioner uses her discretion under section 113 to correct this error.

Scenario 10: A taxpayer with "other income" is miscategorised as a "Group A"

Inland Revenue uses the information it knows about a taxpayer to determine which grouping that taxpayer is put into. It is acknowledged that in some situations Inland Revenue may not get this completely right.

Example 23: Keith

Keith earns a salary of $70,000 per annum. This is the only type of income he has earnt for several years. On 1 March 2019 he buys a rental property but does not tell Inland Revenue. Sometime in May 2019, Inland Revenue automatically finalises Keith's tax position. This is because Inland Revenue is satisfied, based on the information held for Keith, that he is solely a reportable income earner.

The income Keith earns from the rental property is "other income" and will need to be included in Keith's end of year income tax assessment. Keith has been treated as a qualifying individual by Inland Revenue. This means that under new section 22G(3) Keith has until his terminal tax date (generally 7 February of the following year) to amend his assessment without being subject to penalties or interest.

When Keith receives notification from Inland Revenue in May that his end of year tax position has been finalised, he promptly logs into his myIR and amends his assessment to include the rental income information and confirms this as his final tax position for the year. Under section 22G(3) this is treated as a new assessment and Keith has until terminal tax to pay any outstanding tax.

Example B

Drawing on the example above, if we assume that Keith informed Inland Revenue about his rental property prior to Inland Revenue finalising his assessment, then Keith would be recategorised as a "Group C" person for the purposes of the individual's income tax rules.

In accordance with section 22H(2), this means that Keith would have until 7 July 2019 to provide other income information, correct any errors and finalise his account as correct and complete. If Keith has not finalised his account by this date, then he will be subject to a late filing penalty and Inland Revenue may eventually issue a default assessment under section 106.

Walkthrough of the individual's income tax changes for a "Group B" individual

This section sets out some common scenarios that a "Group B" individual may find themselves in and explains how the new law applies.

A "Group B" taxpayer is a qualifying individual who earns reportable income and who may have provided additional information in prior years' assessments, such as claiming an allowable deduction. For Group B individual, Inland Revenue considers, based on previous returns and the other information it holds about the individual, that they may have other income information to provide.

In these circumstances, the taxpayer's assessment will not be immediately finalised by the Commissioner but will be "suspended" for a period of time to give the individual an opportunity to provide this further information if applicable.

Scenario 1: When a pre-populated account may be temporarily suspended to give the individual an opportunity to provide additional information

The types of information that would result in an individual being subject to a suspended process are set out in section 22F(3) and the relevant table in schedule 8. As per that section, an individual may provide information for a tax year on amounts set out in schedule 8, part A, table 2. Table 2 provides that an individual may provide additional information on the following:

1. A deduction.
2. A tax credit carried forward under section LE 3 of the Income Tax Act 2007.
3. A tax loss balance, or tax loss component, other than a tax loss component under section LE 2 of the Income Tax Act 2007.
4. A donations tax credit.
5. An amount of income protection insurance.

Inland Revenue will contact an individual if it appears that the individual may have some additional information to provide. This will be informed by whether the taxpayer may have had or claimed expenses, credits or losses in prior tax years and any other relevant information that Inland Revenue holds in respect of the taxpayer.

This means that if an individual wishes to claim expenses but has not done so in the past, the onus will be on the individual to contact Inland Revenue or update their pre-populated account before it is finalised to include this information. If they fail to do this prior to their assessment being finalised by the Commissioner, they would have to apply the relevant error correction processes in order to include the additional information.

When an individual provides a valid expense claim or deduction, this will lower the individual's liability for the tax year. Therefore, there is an incentive for the individual to respond to the Commissioner's query about additional information. Although there are limited deductions available to individuals earning reportable income, Inland Revenue intends to provide an opportunity for taxpayers who it considers likely to have such deductions an opportunity to claim them before their account is finalised for them. Inland Revenue will therefore utilise what it knows about an individual to make it easier for the individual to provide the relevant expense information, when applicable, rather than having to use post-assessment correction provisions to add this in after the account is finalised.

Example 24: Rohit

Rohit is a salary earner who works as a scientist. Inland Revenue knows that in previous tax years, Rohit has claimed a deduction for income protection insurance. Inland Revenue therefore has reason to believe that Rohit may intend to claim this deduction for the current tax year as well. Instead of automatically calculating Rohit's income tax assessment, Inland Revenue notifies Rohit via myIR that he has previously claimed income protection insurance and may wish to do so again this year. Inland Revenue give him a period of time to respond.

If Inland Revenue has not heard from Rohit at the conclusion of the given period, Inland Revenue will progress on the basis that Rohit does not have any income protection insurance to claim for this tax year and will finalise his assessment based on the information in his pre-populated account. If Rohit responds confirming that he has this information, his assessment will be calculated using the information he provides and confirms as his complete and correct position for the tax year.

Certain types of other income, such as ACC attendant care payments and expense information in relation to schedular payments, will also be subject to this suspended auto calculation process. For example, where an ACC beneficiary is receiving personal service rehabilitation payments and on paying that to their personal carer (known as an ACC attendant care payment), Inland Revenue would require the ACC beneficiary to provide information regarding how much was passed on to the caregiver.

Individuals may also have to provide additional income information to Inland Revenue on an interim basis until the changes in the recently enacted Taxation (Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters) Act 2018 take full effect. These changes introduced in that Act will require investment income payers to provide detailed information to Inland Revenue about the income paid to individuals from these sources ("reportable income").

During the transitional period, if Inland Revenue records indicate that qualifying individuals have in the past returned dividends or Maori authority distributions, then these individuals may also initially be prompted to provide this additional information in order to complete their assessments.

Walkthrough of the individuals' income tax changes for a "Group C" individual

This section explains how the new individual's income tax changes will apply to a person who falls within "group C". A "group C" individual is a person who, although they may have some reportable income, is expected to have other income. Individuals that fall into this category will not be required to provide income information to Inland Revenue. This section will cover the following scenarios:

1. A standard assessment for a group C individual
2. Individual amends their pre-populated account pre-assessment
3. Commissioner amends individual's pre-populated account pre-assessment
4. Individual wishes to amend their final account post-assessment
5. Commissioner amends individual's final account post-assessment
6. The individual requests to amend their assessment after terminal tax
7. Inland Revenue miscategorises which "group" the income earner should be in.

Scenario 1: A standard assessment for a group C individual

Example 24: Mike

Mike is a doctor on a salary of $200,000 per annum. His employer deducts PAYE correctly and remits this to Inland Revenue. Mike also owns a portfolio of rental properties which provides him with additional rental income of $100,000 per annum. This represents all of the income Mike earns for the 2018–19 tax year.

As rental income comes under the definition of other income in section 22D(4) and Schedule 8 Part A table 1, Mike is categorised as an "other income" earner. This means that, under section 22H(2) Mike must, as an "other income" earner, provide his other income information to Inland Revenue. Mike is then required to review the information in his pre-populated account and finalise his account for the tax year by confirming it as correct and complete by the due date in section 22H(4) (usually 7 July unless Mike is entitled to an extension of time).

Mike logs into myIR on 15 May 2019, provides his other income information, and then finalises his account as correct and complete. By finalising his account, Mike has filed his tax return for the 2018–19 tax year. Mike would have until the terminal tax date to pay any applicable tax due, or if in a refund position would receive his refund shortly after his account is finalised.

The above example sets out the assessment process for an "other income" earner. All of the "reportable income" that an individual earns will be provided to Inland Revenue by way of third-party reporting and will be included in the individual's pre-populated account for the tax year. If an individual earns income that falls under the definition of "other income" in section 22D(4) and Schedule 8 Part A table 1, they are required to provide this information and finalise their tax position themselves.

An individual who earns both "reportable" and "other income" must ensure that the information included in their pre-populated account is correct and complete before they confirm their end of year assessment. If the individual wishes to file their return shortly after the end of the tax year, and before Inland Revenue will have received all reportable income information from the relevant third parties, they must ensure that they include this information in their tax return. It follows then that it may be easier for an "other income" earner who also earns "reportable income" to wait until Inland Revenue has complete "reportable income" information before filing their return. "Reportable income" information will likely be completed by shortly after 15 May following the end of the tax year.

Example 25: Mike

Let's assume that instead of logging into myIR on 15 May 2019 to provide his other income information and finalise his tax position for the tax year, Mike logs into myIR on 1 April 2019 to provide his "other income" information and finalise his tax position. In this situation, it is unlikely that the last few pay periods from Mike's salary as a doctor will have been pre-populated. This means that, if Mike wishes to finalise his tax position for the 2018–19 tax year on 1 April 2019, Mike will need to provide this information himself.

Mike provides his other income information and then commences a review of all of the information that is included in his pre-populated account for the tax year. As expected, Mike realises that the last few pay periods of salary and wage income are missing. Mike logs out of myIR and sets a reminder in his Calendar to log back in on 15 May 2019 to review and confirm his income information for the tax year.

Scenario 2: How an individual amends their pre-populated account pre-assessment

An individual who earns other income can amend their income information in their pre-populated account at any time before it is finalised (section 22G(2)). As above, an individual who earns other income is required to finalise their account by 7 July of the following tax year, or later if they have an extension of time.

> **Example 26: Mike**
>
> Let's assume a further variation of example 25 above which deals with Mike as a salary earner who also has rental income. Under this variation, Mike does the following:
>
> 15 May: Mike logs into myIR and provides his rental income for the tax year. Mike does not finalise his account at this point as he had some repairs done on his property during March 2019. Mike is waiting for the invoice for this work so that he can claim a deduction against this income.
>
> 20 May: Mike receives an invoice from the builder who performed the repair work on his property for $8,000. Mike logs into myIR and claims this as an expense against his income. Mike then finalises his return accordingly by confirming his income information as correct and complete under section 2H.

Scenario 3: Commissioner amends individual's pre-populated account pre-assessment

As is applicable to individuals who earn reportable income, section 22G(5) also allows the Commissioner to amend information in an "other income" earner's pre-populated account for the tax year to correct errors. This must be done prior to the account being finalised and the Commissioner is required to notify the individual of any amendment made.

> **Example 27: Sally**
>
> Sally is 17 years old and still at school. She is passionate about animals so works part time at a local charity that rehomes stray dogs. Sally earns a salary of $10,000 per annum. Sally is so passionate about animals that she decides to donate $12,000 to her local charity. She makes this donation on 15 March 2019. Sally logs into myIR on 1 May 2019 to add a donation tax credit claim of $12,000. Sally also runs a lemonade stand at her local netballing club and updates her pre-populated account to include the additional $2,000 income that she earnt from that during the tax year. Sally does not yet confirm her income information as complete, as she wants her dad, who is an accountant, to check that she has inputted the information correctly. Sally's dad is on holiday in India so is unable to check over the information until he returns on 1 June 2019.
>
> In the meantime, Inland Revenue notices that Sally has claimed donation tax credit for $21,000, despite the receipt provided stating that a $12,000 donation was made. In these circumstances, Sally has clearly made a typing error. The amount claimed is incorrect. Inland Revenue make a provisional amendment to Sally's donation tax credit claim to ensure that the claim is $12,000 and matches the receipts provided. Inland Revenue notify Sally of the update via myIR.
>
> When Sally's dad returns from India he checks over her pre-populated account for the tax year and confirms that the information is correct. Sally finalises her account accordingly.

Scenario 4: Individual amends their final account post-assessment

When an "other income" earner wishes to amend their final account post-assessment, they must request that the Commissioner makes an amendment as per section 113, as discussed above.

Alternatively, they may be able to issue a NOPA if the applicable timeframes have not lapsed. The taxpayer's NOPA must be issued within the applicable response period as defined in section 89AB. Generally, this will be within the four-month period that starts on the date that the Commissioner receives the taxpayer's assessment unless the Commissioner allows a late NOPA under section 89K(1).

Example 28: Mohammed

Mike's cousin, Mohammed, runs an online business selling vintage clothes. He sells items through his personal website and also through a Trade Me account. When Mohammed finalised his account for the 2018–19 tax year, he included $5,000 worth of sales on his Trade Me account that were his own personal items, a second-hand TV and a leather lounge suite. Mohammed's Trade Me account lists thousands of items for sale per year and when filing his return Mohammed had forgotten he had used his business account to sell these personal items which led to the items being included in his return by mistake.

Mohammed finalised his account for the 2018–19 tax year on 1 June 2019. Mohammed realised he had made a mistake on 15 September 2019. This is still within the valid response period as set out in section 89AB. Mohammed wishes to make an adjustment to his tax return. He completes a NOPA requesting that $5,000 be excluded from his taxable income as assessed for the 2018–19 tax year and sends it to Inland Revenue.

Scenario 5: Commissioner amends individual's final account post-assessment

Section 22G(7) requires the Commissioner to issue a NOPA under section 89B (subject to the exceptions set out in section 89C, such as when the taxpayer provides a return with a simple mistake or obvious oversight) before amending an assessment for an "other income" earner. This is consistent with the settings in place prior to the new rules being introduced.

Example 29: Ben

Ben is a salary earner who owns a large amount of rental property. Ben also claimed some expenses against his income for the 2018–19 tax year for repairs carried out on one of his rental properties. Ben finalised his tax position for the 2018–19 tax year on 1 June 2019. On 8 August 2019, Inland Revenue does an audit on one of Ben's accounts and discovers that he has incorrectly categorised the installation of insulation in one of his properties as a repair and has claimed that amount as an expense. As the property was previously uninsulated, the amount should have been treated as an improvement and capitalised.

In accordance with the requirements in section 22G(7), the Commissioner issues Ben with a NOPA under section 89B.

Scenario 6: The individual requests an amendment to their assessment after the terminal tax date

If an individual wishes to amend the information in their final account after their terminal tax date, section 22G(8) provides that the individual may ask the Commissioner to amend their final account under section 113. The Commissioner will progress the amendment if she is satisfied that the suggested amendment is clearly correct. The purpose of this provision is to clearly signpost to the taxpayer what mechanisms will exist under the law for an individual earner to amend their assessment after the terminal tax date. Section 22G(8) does not limit the use of section 113 more generally. The Commissioner may consider a request under section 113 at any time (such as after the expiration of the time period for issuing a NOPA but prior to a taxpayer's terminal tax date, for example).

Example 30: Mike

Mike got a builder in to do repair work on one of his properties and the builder sent Mike a bill for $8,000 in May 2019 for the work he had quoted for and completed in March 2019. Mike had accrued this cost but had accidentally keyed in $5,000 instead of $8,000. He didn't notice this when he was providing his tax information for the year so he only claimed a $5,000 expense, but he paid the builder the $8,000 in May.

Mike discovered his earlier error when he was reconciling his accounts for the 2019–20 year. As this was an expense that related to the 2018–19 income year, Mike asks the Commissioner to amend his assessment in accordance with section 22H(4).

As the amendment is clearly correct, the Commissioner agrees to use her discretion to make the change.

Scenario 7: Inland Revenue miscategorises which "group" the income earner should be in

There are two ways in which Inland Revenue can miscategorise which "group" an individual income earner should be in. The first is where the Commissioner treats the taxpayer as a qualifying individual in circumstances where the individual actually earns "other income". The second is where the Commissioner treats an individual as a person who earns "other income" when they are actually a "qualifying individual".

An individual who is actually a qualifying individual will always be able to take advantage of the rules that apply to qualifying individuals. However, section 22G(3) also provides that an individual who is **treated as a qualifying individual** may amend the income information in their final account at any time before their terminal tax date for the tax year. Any earlier assessment for the tax year is regarded as not having been made. Extending this to miscategorised "other income" earners ensures that they are not disadvantaged by any miscategorisation.

Example 31: Ousmane

Ousmane works for a florist earning wages. The only income information Inland Revenue has received in relation to Ousmane for the 2018–19 income tax year is this wage income, and his earnings in previous tax years have always been consistent with this position. As such, Inland Revenue is satisfied that the information in Ousmane's pre-populated account is correct and complete. His account is therefore finalised on 1 June 2019 in accordance with section 22H.

What Inland Revenue do not know is that in February 2019 Ousmane started his own business creating and selling gift baskets. For the 2018–19 tax year, Ousmane earnt an additional $3,000 income from this side business. This is classified as "other income".

As an "other income" earner with a standard balance date, Ousmane is required to finalise his account by confirming that the income information in his pre-populated account is correct and complete by 7 July of the following tax year (section 22H(4)). However, by virtue of being treated by Inland Revenue as a qualifying individual, Ousmane can, under section 22G(3), provide this information by as late as his terminal tax date of 7 February.

As previously advised, Inland Revenue auto calculated Ousmane's tax position on 1 June 2019. As long as Ousmane logs into his myIR to provide his "other income" information and finalise his account before 7 February 2020, this will be treated as a fresh assessment for the purposes of the individuals' rules. The assessment that resulted when Inland Revenue finalised Ousmane's account on 1 June 2019 will be regarded as not having been made. Ousmane will have until his terminal tax date to pay any resultant tax bill and will not be subject to any penalties or interest (this means that if he finalises his account right before terminal tax, the payment date will be almost immediate).

REFUNDS OF TAX AND AMOUNTS OF TAX TO PAY

Sections 22F, 22J, 22IB and Schedule 8 of the Tax Administration Act 1994. Sections RM 2, RM 4, RM 5, RZ 15 and RZ 16 of the Income Tax Act 2007. Sections MD 1, MD 1B and MD 1C of the Income Tax Act 2004. Sections MD 1, MD 1B and MD 1C of the Income Tax Act 1994.

Several amendments have been introduced to improve the process for issuing refunds and advising individuals that they have tax to pay or are due a refund. New write-off rules have also been introduced to reduce compliance costs and improve the fairness and integrity of the tax system. Together, these changes will simplify the rules so that more individuals can understand their obligations and meet those with minimal effort.

Changes have also been made to the refund provisions for back years. As the law previously limited Inland Revenue's ability to refund some credits, these amendments will allow for these amounts to be managed and refunded.

Background

Under the previous law, individuals were responsible for determining whether they were required to file a return, or whether they needed to take any action to finalise their tax position.[1] Taxpayers who were not required to file returns did not have their tax positions squared up automatically. If these taxpayers wanted to determine whether they had tax to pay or were due a refund, they were required to interact with Inland Revenue (by requesting a personal tax summary, for example). Non-filing taxpayers could be selective and, based on their summary of earnings, request a personal tax summary only in years in which a refund was due. This approach did not accord with the Government's objective of making tax simpler for individuals, and there was an integrity concern with taxpayers being able to choose to obtain refunds but not be obligated to crystallise amounts of tax to pay.

Under the new rules, if an individual who is not required to provide additional information is due a refund or has tax to pay, then Inland Revenue will complete this process for them. Refunds will be paid out without an individual having to interact with Inland Revenue to request them and Inland Revenue will contact individuals and inform them of any amounts of tax to pay. To improve the integrity and fairness of the system, new write-off rules have also been introduced. The objective behind these write off rules is to reduce compliance costs and ensure that individuals who have done everything they reasonably could to meet their obligations are not surprised by a tax bill at year-end.

[1] A person was not required to file a return if they, in addition to satisfying a number of other criteria, derived $200 or less of certain types of income from which tax had not been withheld or had been withheld incorrectly (see section 33AA(1) of the Tax Administration Act 1994).

Key features

The changes are as follows:

New individuals' income tax changes

- Inland Revenue will determine whether individuals who are not expected to be required to provide information to Inland Revenue are entitled to a refund or have tax to pay.
- Refunds will be paid out without individuals having to request them.
- Inland Revenue will issue income tax refunds by direct credit (provided customer bank account information is up to date), but not if that would result in undue hardship or is not practicable.
- Write-off rules have been introduced that will be reversible if the taxpayer no longer meets the requirements to receive the write-off. These rules provide that when an individual has only earnt reportable income:
  - Amounts of tax payable that do not exceed $50 will not have to be paid.
  - Amounts of tax payable that arise due to an extra pay period where that income has been taxed at the correct rate will not have to be paid (subject to exclusions).
  - Amounts of tax payable that arise at year-end when an individual's income is derived solely from an income tested benefit, education grant or payment of NZ superannuation/veterans' pension will not have to be paid.
- An amendment has also been made to allow a list of prescribed persons to supply income and expense information on behalf of a deceased taxpayer if no executor or administrator is appointed.

Changes to allow refunds to be made for back years

- The refund provisions have been amended for back years to ensure that they are clear and unambiguous, that there is consistency across time periods and to allow previously time barred refunds to be paid out.
- An amendment has been made to ensure that there are mechanisms in the law to allow for credits owed to deceased taxpayers under the previous law, to be refunded.
- Inland Revenue will allow certain prescribed persons to provide "other income" information on behalf of a deceased taxpayer from 1 April 2019 to ensure assessments can be completed on behalf of deceased taxpayers in the year of their death.

Application date(s)

The individuals' income tax proposals apply from 1 April 2019, with the exception of the write-off rule for income derived from an extra pay period which applies from 1 April 2020.

The amendment to the refund provisions to ensure consistency for back years applies retrospectively for the period 1 October 2004 until 31 March 2013.

The amendment to allow a list of prescribed persons to confirm an income statement on behalf of a deceased taxpayer applies retrospectively for the period that the law on income statements was in force, being 1 April 2000 until 1 April 2019.

Detailed analysis

No obligations to provide information: de minimis *and certain other amounts*

New section 22K sets out the circumstances in which an individual will not have to provide income information to Inland Revenue. 22K(1) provides that an individual will not have to provide information for a tax year if the individual derives other income below a $200 *de minimis* threshold.

Example 1: Max

Max works in an office as an analyst, earning $70,000 per annum. Max's first anniversary with his girlfriend is coming up, and Max really wants to buy her a necklace. Unfortunately for Max, their anniversary falls shortly after they have been away on holiday and Max has spent all of his money.

Max visits the beach on the weekend and sees a bunch of people riding about and having fun on Feijoa scooters. Max enquires further and finds out that he can make some additional money as a Feijoa scooter recharger. The task involves collecting Feijoa scooters that are running low on battery, recharging them at home and taking them back to a designated area.

Max loves the beach and lives just across the road from a Feijoa "drop off" point. Max eagerly signs up as a recharger, hoping to make enough money for the necklace and have some fun in the sun at the same time.

After a weekend of recharging Feijoa scooters, Max checks his Feijoa app and finds that he has earned $188 for his weekend of work. Max goes out and buys the necklace and lets Feijoa know that he will no longer be recharging for them anymore.

As the amount of other income Max has earned is under $200, and this is the only additional income Max has earned during the tax year that has not been subject to withholding, Max does not have to return this income in accordance with new section 22K.

Example 2: Jamie

Jamie works as a ranger at the local wild life park, earning $50,000 per annum. His best friend, Bateson, is going away for three months and pays Jamie $250 to keep his lawns and garden in shape while he is away.

As this amount is above $200, Jamie will need to provide this income information to Inland Revenue and pay tax on this income.

Threshold for refunds or tax payable

It was initially proposed that the $5 refund threshold in section 174AA(b) would be removed. This threshold meant that refunds lower than $5 did not have to be paid out and removing the threshold would require all refunds to be paid out regardless of amount. This change was not enacted and the existing $5 threshold in section 174AA(b) will remain. While the intention is to move to issuing tax refunds by direct credit, there will still be a need to issue cheques in the short term. Although the $5 threshold will be retained legislatively, Inland Revenue are currently expecting to refund amounts lower than $5 but will not yet refund very small amounts.

Write-off rules for individuals

In accordance with new section 22J and new schedule 8, an individual who only earned **reportable income** will be able to qualify for a write off in certain prescribed circumstances.

These are:

- if the amount of tax payable is no more than $50;
- if the amount of tax payable is derived solely from certain income tested benefits; or
- if the amount of tax payable is derived solely from an extra pay period.

Example 3: Max and Jamie

Drawing on our two examples above:

Max: Although Max's Feijoa scooter earnings fall under the definition of "other income", the amount is less than $200. Because this is below the *de minimis* threshold, Max is deemed to be an individual who only earns "reportable income" and therefore will qualify for a write off where he meets the criteria.

Jamie: Jamie has $250 of "other income". This means that Jamie is no longer an individual who only earns "reportable income" and is therefore discounted from the write off rules.

New section 22J(2) also provides that these write-offs will be reversible where a taxpayer no longer meets the requirements to receive the original write off, whether that be through a subsequent reassessment or otherwise.

Example 4: Dan

Dan is a prison warden and earns $50,000 per annum. When his father died, he was left an inheritance of $20,000. Dan has this in a low risk term deposit with his local bank and earns 5% interest per year. When Dan set the term deposit up he used the most appropriate RWT rate for his expected income, which was 30%.

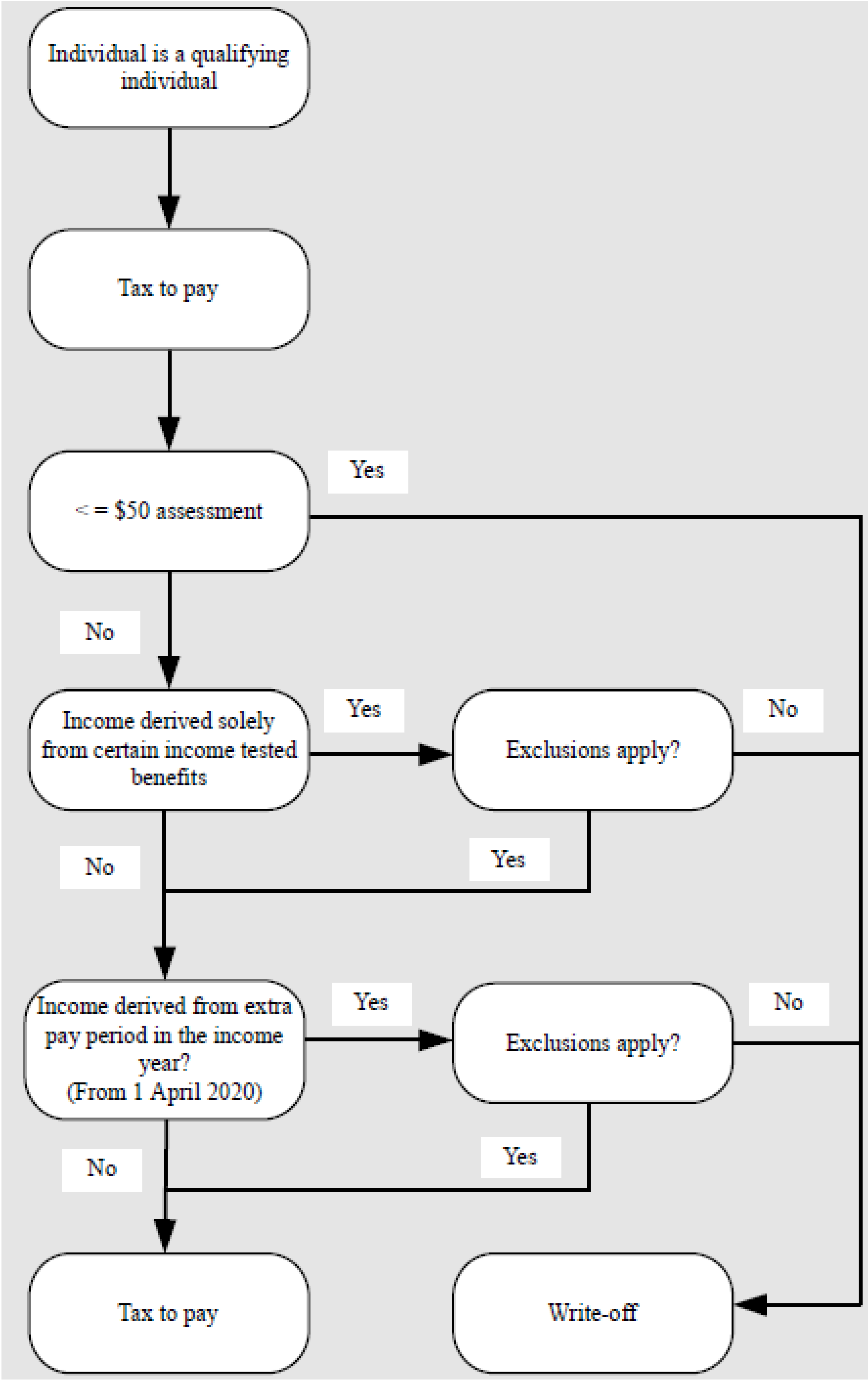
On 1 April 2018, Dan is promoted at work to senior warden, and now earns $70,000 per annum. This means that Dan's marginal tax rate is now 33% and therefore, 33% is the appropriate RWT rate for Dan to be on to ensure that his interest income is taxed correctly.

Dan remains on the 30% RWT rate for the entire 2018–19 tax year. It follows that the $1,000 in interest that he earns from his term deposit would have been under withheld by $30, leaving him with tax to pay of $30.

When the new individuals' income tax changes kick in on 1 April 2019, Dan, as a reportable income earner who has never had any other income, has his assessment finalised by the Commissioner. This leaves Dan with a $30 tax bill, but this is written off automatically as it is under $50.

After Dan's tax position has been squared up, Dan realises that he fixed his neighbour's car in March and was paid $1000 for his handy work. Dan logs onto myIR and makes an amendment to submit the $1,000 of other income. Dan's tax position is recalculated, and he has a tax bill of $360.00. This is comprised of 33% tax on $1000 at Dan's marginal rate (or $330) and, because Dan is now no longer an individual who solely earns reportable income, Dan no longer meets the requirements for the $30.00 write off he received. The write off is therefore reversed as per new section 22J(2).

The following flowchart provides a brief overview of how the write off rules operate. The write off rules, and the number of exceptions that apply to them, will be discussed in greater detail over the following pages.


Individual is a qualifying individual
Tax to pay
< = $50 assessment
Yes
No
Income derived solely from certain income tested benefits
Yes
Exclusions apply?
No
No
Yes
Income derived from extra pay period in the income year? (From 1 April 2020)
Yes
Exclusions apply?
No
No
Yes
Tax to pay
Write-off

a. *Where an individual only earns reportable income and tax payable is not more than $50* ***(Schedule 8, Part B, clause 1(a))***.

Part B clause 1(a) in new schedule 8 provides that when an individual who only earns reportable income has tax payable at year-end that is no more than $50, that amount of tax will not be required to be paid. If the amount of tax payable is greater than this amount, the entire amount payable must be paid unless another one of these rules applies.

The purpose of this rule is to ensure that individuals who have had about the right amount of tax deducted will not have a tax bill at year-end. As interest income will now be included in a taxpayer's income and tax calculation, the addition of the $50 write off essentially maintains the position where undertaxed interest income was not required to be reported provided it was less than $200.

Example 5: Sarah

Sarah works part time at a local café for 20 hours per week while she is at school. Sarah finishes school in December and carries on working part time over the summer. When summer ends, Sarah asks to increase her hours to full time. As the café is unable to offer Sarah full time hours, Sarah obtains another job at a local childcare centre, also for 20 hours per week. Both jobs pay her $25.00 per hour.

Sarah commences her job at the childcare centre on 22 March and elects an "M" tax code. This now means that both Sarah's job at the café and her job at the childcare centre are on the M tax code, instead of adopting a secondary code. When an M tax code is used for concurrent sources of income, there will be multiple claims to the lowest (or lower) tax rates and therefore tax to pay at year-end due to this overuse of the lower tax brackets. This is an incorrect tax code for Sarah to be on.

In Sarah's case, as both jobs are on the M tax code she is paying $68.65 in tax from each job (excluding ACC earner's levy) per week. This amounts to $137.30 and less than the $165.76 that she should be paying if she were taxed at the right rate. As Sarah is being taxed at the incorrect rates for only one week, being the last week of the tax year, she will have tax to pay at year-end of $28.46.

As this not more than $50, the tax will not be required to be paid as per schedule 8 clause b part 1(a).

For the sake of completeness, it is also worth pointing out that, as Inland Revenue receives information by way of pay day reporting, Sarah's use of incorrect tax codes will be picked up early in the following income year. As the income she receives from her two jobs crosses an income tax threshold, a tailored tax code would be more appropriate for her as opposed to a secondary tax code. Inland Revenue would therefore contact Sarah and recommend she selects a tailored tax code. If Sarah did not consent to this, Inland Revenue would instruct her second employer to adopt a secondary code – as using two M codes is an incorrect use of tax codes. In Sarah's case she would be better off accepting a tailored tax code as this will ensure about the right amount of tax is deducted during the year.

(b) All income from income-tested benefits

When an individual receives all of their income from an income tested benefit, education grant or a payment of NZ superannuation/veterans' pension (or a combination of these), and an amount of tax payable arises at year-end, then this amount will not have to be paid by the individual.

The purpose of this rule is to deal with an apparent under-withholding of PAYE in the situation where a person may receive a payment for a back-year entitlement.

> **Example 6: Cameron**
>
> Cameron is a 64-year-old beneficiary and is in receipt of a benefit for part of the 2018–19 tax year. Cameron turns 65 on 1 November 2018 and begins receiving NZ Superannuation from that date.
>
> It transpires that Cameron is owed a back-paid benefit entitlement due to being underpaid in a previous tax year. In the event that the calculation of the tax payable on this back payment led to a tax bill at year-end, that tax would not need to be paid by Cameron.
>
> This is because, for the purposes of schedule 8, part B, clause 1(b) of the TAA, this constitutes an amount of tax that relates to reportable income derived solely from income sources in clause 1(b). For the purposes of this rule, it does not matter that Cameron derived income from a combination of the sources listed in clause 1(b) (in his case a benefit and NZ superannuation).

(c) Extra pay period in the corresponding income year

If an individual who only earns reportable income which has been taxed at the correct rate has tax payable at year-end that has arisen **solely** because of an extra pay period, then that amount of tax owing will not need to be paid.

> **Example 7: Sam**
>
> Sam is an employee earning salary income which is paid weekly and from which his employer deducts PAYE each pay day.
>
> Last year Sam's annual salary was $78,000. Each week Sam earned $1,500 from which Sam's employer withheld $320 PAYE (excluding ACC earners' levy) each pay-day. Because of the day on which his salary is paid, last tax year Sam received 53 weekly salary pays in the tax year (a standard tax year has 52 pay-days).
>
> Because the PAYE system is based on 52 weekly pay days occurring in a tax year, Sam has a tax shortfall of $175. (He received $79,500 salary income in the tax year, but his weekly PAYE was based on $78,000).
>
> Sam would not be required to provide any income information to Inland Revenue. Inland Revenue would consider what it knows about Sam. There would be no reason to suggest that Sam needs to provide any information to Inland Revenue, as Sam only earns reportable income which has been taxed at the correct rate, he will not have to pay the extra tax that has arisen due to the extra pay period.

Exclusions (Schedule 8, part B, clause 2)

As mentioned above, there are three categories under which a reportable income earner may be eligible for a write off. These are:

- if the amount of tax payable does not exceed $50;
- if the income is derived solely from certain income tested benefits; or
- an amount of tax to pay on income derived from extra pay period in the income year

The purpose of schedule 8, part B, clause 2 is to set out the exclusions that apply to these write off rules.

If the amount of tax payable does not exceed $50

As per Schedule 8 Part B clause 1(a), tax payable that does not exceed $50 will be written off. This applies irrespective of whether the taxpayer has complied with any other obligations. The purpose of this rule is to ensure administrative efficiency and to ensure consistency with the *de minimis* threshold for the provision of other income information (currently set at $200). There are **no exceptions** to this rule.

If the income is derived solely from certain income tested benefits

In order to qualify for a write-off under this rule, a taxpayer's income must be derived **solely** from an income tested benefit, education grant or a payment of NZ superannuation/veterans' pension.

It is acknowledged that there may be instances when an individual who qualifies under this rule may earn a small amount of additional income which should not necessarily disqualify them from a write-off. Schedule 8 Part B clause 3 provides that, despite the rule, the Commissioner may write off an amount of tax if the amount is not substantial and represents an underpayment of tax that is attributable to a function or operation of the tax collection rules.

> **Example 8: Cameron**
>
> As mentioned in example 6, Cameron is a beneficiary and receives $250 per week (gross), or $13,000 pa. Cameron received a call from MSD informing him that they had miscalculated his entitlement for the 13–14 tax year and that he was owed $3,000. As Cameron's income was derived solely from an income-tested benefit, it was concluded that Cameron's $210 tax bill would be written off.
>
> Consider a modification to that scenario whereby, instead of solely deriving his income from an income tested benefit, Cameron also had a small amount of money in an interest-bearing bank account. In that situation, although Cameron's income is no longer solely derived from an income-tested benefit, Schedule 8 Part B Clause 3 would kick in to ensure that Cameron still received the write off.
>
> The threshold set under Schedule 8 Part B Clause 3 will be set administratively.

The other exception that applies to the write off rule for income derived solely from certain benefits, is the Working for Families Tax Credit (WfFTC) exception under Schedule 8 Part B Clause 2(1). This means that, if the taxpayer receives WfFTC, they will be unable to receive a write off under this rule.

If the income is derived from an extra pay period in the income year

As with the two above rules, if a taxpayer receives WfFTC, the taxpayer will not be eligible for a write-off of income derived from an extra pay period (see Schedule 8 Part B Clause 2(1). The application date for this extra pay rule is deferred until 1 April 2020.

Example 9: Sophia

Sophia works at a meat processing plant and earns $38,000 per annum. She has 5 kids and her husband stays at home to look after them. Sophia is also a recipient of WfFTC.

Because of the day on which she is paid, Sophia receives 53 weekly pays in the tax year (a standard tax year has 52 pay-days for weekly earners). Because the PAYE system is based on 52 weekly pay days in a tax year, Sophia has a tax shortfall of $28.88 from her PAYE income at year-end. (She received $38,731 salary income in the tax year, but her weekly PAYE was based on $38,000).

Schedule 8 Part B Clause 1(c) provides that an amount of tax that arises **solely** because an individual has an extra pay period will be written off. However, the exclusion in clause 2(1) of this Part provides that a taxpayer will not qualify for an extra pay write off where the taxpayer has been assessed as receiving an entitlement and tax credit under the family scheme (receives working for families).

This means that Sophia would ordinarily have to pay the $28.88 shortfall that arose as a result of the extra pay. However, in this case, because the amount is still under $50.00, it will be written off as per Schedule 8 Part B clause 1(a).

A taxpayer will also not qualify for a write off under this rule if, for the types of income referred to in Schedule 8, Part B, clause 2(3):

- the Commissioner has recommended, and the individual has consented to a change to a higher tax code or rate; or
- the individual has used a tailored tax code.

The types of income listed in Schedule 8, Part B, clause 2(3) are:

- any income where the obligations of the individual under the PAYE rules are not met;
- investment income where RWT is withheld at a rate lower than the correct rate;
- schedular income, income from employment that is an extra pay or secondary employment where tax has been withheld at a rate lower than the correct rate;
- an amount of income derived from a Maori authority distribution or derived using the EDW or CAE code where the individual's gross annual income is more than $48,000; and
- employee share scheme income where the employer has not elected to withhold tax

Example 10a: Thomas

Thomas works as an accounting intern and earns $40,000 per annum. Thomas also has a $100,000 inheritance which he has invested in a term deposit with his local bank yielding him 4% interest pa. At the time Thomas deposited the money, 17.5% was the most suitable RWT rate for his interest income.

Thomas leaves his intern position and takes up a position at another accounting firm as an analyst, starting 1 April 2019. Thomas's new salary is $78,000 per annum. Although Thomas's marginal tax rate for the 2018–19 income year will be 33% due to his new job, Thomas forgets to update his RWT rate with the bank.

Inland Revenue notices that Thomas's salary has increased and that 33% is a more appropriate RWT rate for him to be on for his interest income. Inland Revenue picks this up by way of a proactive action and on 20 April suggests that Thomas consents to an increased RWT rate. Thomas consents to the change.

Because of the day on which Thomas gets paid for his new job, he receives 53 weekly pays in the tax year (a standard tax year has 52 pay-days for weekly earners). Because the PAYE system is based on 52 weekly pay days in a tax year, Thomas has a tax shortfall of $175 from his PAYE income at year-end (he received $79,500 salary income in the tax year, but his weekly PAYE was based on $78,000).

Schedule 8 Part B Clause 1(c) provides that an amount of tax that arises **solely** because an individual has an extra pay period will be written off. However, the exclusion in clause 2(2) of this Part provides that a taxpayer will not qualify for an extra pay write off when the Commissioner has recommended, and the individual has consented to, a change in tax code or rate to a type of income in clause 2(3). The Commissioner recommended a change to Thomas's RWT rate and Thomas accepted this change. RWT on investment income that is withheld at a rate lower than the correct rate is listed in clause 2(3).

This means that Thomas will have to pay the $175 shortfall that arose as a result of the extra pay. He will also have some tax payable on his interest income to account for the period of time where he commenced his higher paying job but was still on the unsuitable RWT rate of 17.5% for his interest income.

For the sake of completeness, it is also noted that if Thomas had rejected the proactive action and had remained on the 17.5% interest rate for his investment income he would still have the same amount of tax payable at year- end. This is because Schedule 8 Part B Clause 1(c) requires the amount of tax payable to arise **solely** from the extra pay period in order for it to be eligible for a write off. In Thomas's case, there is also an amount of tax payable that has arisen due to the use of an unsuitable RWT rate at a time where his taxable income has increased (by virtue of the new job). Thomas is therefore not eligible for any form of write off.

Example 10b: Paul

Paul works two days per week as an engineering consultant for a small technology start up and is paid $35,000 per year. Paul starts another job for two days per week, on 1 April, as a project manager on a large building site and earns $25,000 per year. Because Paul's secondary income crosses an income tax threshold, Paul should ideally be on a tailored tax code for his project manager salary to ensure that about the right amount of tax is withheld during the year.

Paul initially elects an "M" tax code when he starts his job as a project manager. If an M tax code is used for concurrent sources of income, there will be multiple claims to the lowest (or lower) tax rates resulting in tax to pay at year-end due to this overuse of the lower tax brackets. This is an incorrect tax code for Paul to be on. Inland Revenue notice that Paul is on an incorrect tax code, and by way of a proactive action, suggest that he adopt a tailored tax code for his second job. Paul adopts the tailored tax code after 4 weeks.

Because of the day on which Paul is paid by the technology start up, Paul will have 53 pay periods in the year. Paul will therefore receive some income that has not been subject to the correct withholding and will have a tax shortfall at year-end. Paul will also have a small amount of tax payable to account for the period of time during which his second job (project manager) was also using the lowest tax rate.

Schedule 8 Part B Clause 1(c) requires the amount of tax payable to arise **solely** from the extra pay period in order for it to be eligible for a write off. Although Paul has some tax to pay that has arisen due to his extra pay, he also has a small amount of tax to pay due to being on an "M" tax code for part of the year for his project manager salary. Paul is therefore denied the write off.

Example 10c: Paul (variation)

If we consider a variation of the above example with Paul, but instead of Paul selecting an "M" tax code when he starts his second job as a project manager, Paul sets up a tailored tax code from the outset. This means that a more appropriate amount of tax will be withheld from his project manager salary throughout the year.

Although Paul will receive an extra pay from the technology start-up which will not be subject to withholding, he will be eligible for a write-off of this amount. This is because the amount of tax payable has arisen **solely** due to the extra pay period. Moreover, although Paul has used a tailored tax code, the tailored tax code was not applied to secondary employment earnings from which tax was withheld at a rate lower than the correct rate. In this case, the tailored tax code was applied to the secondary employment earnings from the beginning of the tax year and was therefore always withheld at the correct rate.

Schedule 8 Part B clause 3 provides that, despite the exceptions, the Commissioner may write off an amount of tax if the amount is not substantial and represents an underpayment of tax that is attributable to a function or operation of the tax collection rules.

Order in Council amending schedule 8 – 22J(3)

New section 22J(3) provides that amounts of tax may be added to or removed from schedule 8 part B, clause 1 and 2 by Order in Council. Schedule 8 Part B clause 1 sets out the types of tax payable that must be written off under the individual's write off rules. Clause 2 sets out when an amount of tax does not qualify for a write off under clause 1.

In accordance with section 22J(4), appropriate consultation must be undertaken on the proposed amendments before a Minister recommends a change by Order in Council.

The purpose of this rule is to ensure that there is flexibility in the law to deal with any unforeseen or changing circumstances in a timely manner without having to go through the full legislative process to make a change. As consultation is a requirement under 22J(4), this will ensure that differing views are considered adequately on any given proposal.

Changes to the refund provisions for back years

This section of this special report outlines changes made to the refund provisions for back years. Although these changes are not part of the substantive proposals under the new individuals' income regime, these changes are important to ease the transition between the previous law on income statements and the new rules for individuals.

Amendments to section RM 2 and its predecessors for refunds of overpaid tax

Section RM 2 of the Income Tax Act 2007 and its prior equivalents (MD 1 of the Income Tax Act 2004 and MD 1 of the Income Tax Act 1994) have been amended to simplify the section and to alleviate an ambiguity regarding the application of the time bar to various tax types (for example – income tax vs ancillary taxes and approved issuer levy). An amendment has also been made to section RM 4 of the Income Tax Act 2007, which deals with overpayments on amended assessments, to ensure that the time bar application is unambiguous in this section as well.

More significantly, the Act inserts section RZ 16 into the Income Tax Act 2007 and section MD 1C into the 2004 and 1994 Income Tax Acts. The purpose of these amendments is to ensure that RM 2 and its predecessors apply consistently for back years.

The way that section RM 2 currently applies limits a taxpayer's ability to claim a refund from an amended assessment to a four-year period, but the ability to claim a refund from the original return is unlimited. This is consistent with the policy intent. There is a period during which this section and its predecessors restricted a taxpayer's ability to claim from an original return to four years from the end of the tax year in which the taxpayer provides the return. The purpose of the amendments, which are retrospective in nature, is to ensure that the section applies consistently across all time periods and allow for previously time barred refunds to be paid out.

Example 11: Adam

Adam is due a tax refund of $40 for the 2007–08 tax year. Inland Revenue does not have any contact details or a bank account for Adam and is unable to pay out the refund. Inland Revenue sends a letter to Adam's last known address advising him of the refund and asking him to contact Inland Revenue with bank account details.

Adam eventually receives the letter via a forwarding service six years later and calls Inland Revenue for the refund. The refund is time barred and is unable to be paid out to Adam. This is because the law that applied for the 2007–08 tax year restricted a taxpayer's ability to claim a refund to a four-year period.

It is noted that had the same situation occurred for the 2003–04 tax year, Adam would be able to claim the refund at any point in the future. This is because the restrictive application of the provision did not apply at this time.

The amendments made to these refund provisions ensures that refunds are treated consistently across all periods. This enables old refunds, such as the one in Adam's situation, to be paid out.

Repeal of section RM 5 and new provisions to govern the treatment of certain refunds made on income statements for back years

This Act repeals section RM 5 of the Income Tax Act 2007, along with all other law pertaining to income statements. Section RM 5 required a refund over a certain threshold to be confirmed as correct by the taxpayer before it could be paid out.

The application of section RM 5 meant that, when a taxpayer died, and no administrator or executor had been appointed, nobody could legally confirm the deceased's income statement as correct. This meant that the refund would sit in Inland Revenue's system indefinitely and could not be refunded.

New section RZ 15 has been added into the Income Tax Act 2007 and section MD 1B into the 2004 and 1994 Income Tax Acts to address this issue. These amendments allow for someone to act on behalf of a deceased person to confirm the refund when that person has died, no executor or administrator has been appointed and the refund amount is less than $15,000.

Example 12: Juliet

Juliet is due a tax refund of $800 for the 2015–16 tax year. In accordance with the requirements in section RM 5 of the Income Tax Act 2007, Inland Revenue sends Juliet a letter requesting that she confirm the correctness of her income statement. This is necessary before the refund can be paid out. Juliet dies before receiving the letter.

Juliet dies intestate (without a will). Her estate is not worth much money, so there is not a sufficient incentive for her relatives to apply for letters of administration to deal with her estate (this can be costly and time consuming).

The law that applied prior to these amendments meant that nobody could legally confirm the correctness of Juliet's income statement. This meant that the refund could not legally be released. The amendments in this Act allow for relatives to confirm the correctness of an income statement to ensure that refunds owing to a deceased taxpayer are able to be paid out.

Provision of income information for deceased taxpayers

In order to ensure that the new individuals' income proposals work effectively, new subsections 22F(5) and (6) provide a mechanism through which certain prescribed persons can provide income information on behalf of a deceased taxpayer.

Similar to the situation set out above in the example with Juliet (which exists under the old law), under the new individuals' income tax rules it is important to ensure that income information is provided to Inland Revenue for a deceased taxpayer so that the taxpayer's tax position can be finalised. The inclusion of these new provisions makes it easier for Inland Revenue to finalise the account of a deceased person.

Example 13: Adam

Adam works in an office and earns salary and wages. He also has three rental properties and has previously filed IR3 returns. Upon the introduction of the individuals' income tax changes for the 2018–19 tax year, Adam starts providing this "other income" to Inland Revenue so that his tax position can be can be finalised at year-end.

In 2022 Adam sadly passes away without a will. As there is no executor, no one can step into Adam's shoes and officially deal with his affairs. To ensure that his tax position can be resolved, new section 22F(5) and (6) allow the Commissioner to accept income information from a prescribed list of persons, such as relatives, to finalise Adam's tax position.

PROACTIVE ACTIONS

Sections 24DB and 25A of the Tax Administration Act 1994

Several amendments have been made to enable Inland Revenue to take proactive actions during the year to help people use appropriate tax rates or codes to minimise year-end debts and refunds.

Background

Previously, if an individual was using a tax code which they were not entitled to use, Inland Revenue would contact their employer and instruct that the code be changed. If an individual was using a code that was not wrong per se, but did not reflect their likely year-end tax liability, Inland Revenue lacked the relevant information to suggest corrective action. This would result in a debt or a refund at the end of the year when the individual squared up their tax position.

One of the key objectives of the changes to individuals' income tax is to ensure that individuals pay about the right amount of tax during the year, thereby minimising instances where there is a large debt or refund at year-end. To support this objective, Inland Revenue will utilise the more frequent employment and investment income information it receives to suggest corrective action where projections suggest that an individual is likely to end up with a material under or overpayment of tax because of the withholding rate they are using. This means that Inland Revenue will now contact an individual who is either on an incorrect or an unsuitable rate or code. The difference is that an individual can choose not to accept the change when their current code or rate is merely an unsuitable one.

Suggesting that individuals adopt more appropriate rates will improve how secondary and irregular sources of income are taxed and strengthens the overall perception that the tax system operates fairly throughout the year.

Key features

The changes are as follows:

- Inland Revenue will monitor changes in a person's earnings and identify when they may be using an incorrect or unsuitable tax code or rate.
- Inland Revenue will contact individuals who use an incorrect or unsuitable code or rate and recommend they change it.
- If the individual consents to the change in code or rate, Inland Revenue will notify the employer or payer to update the code or rate.

Application date

The amendments apply from 1 April 2019.

Detailed analysis

In order to understand what these amendments aim to achieve, it is important to appreciate the distinction between an "incorrect" tax code and an "unsuitable tax code". An individual's tax code will be deemed incorrect when they are using a tax code that they are not entitled to use (for example – if a taxpayer has a student loan but is on an "M" tax code instead of "M SL"). The current position under the law will remain unchanged for incorrect tax codes and Inland Revenue will continue to contact the individual's employer and instruct that the code be changed.

An "unsuitable" tax rate or code is used to describe situations where an individual is using a code they are eligible to use, but when projections suggest that the individual is likely to end up with an under or overpayment of tax.

Use of unsuitable tax codes – Section 24DB

Under this section, if an individual who receives PAYE income is on an unsuitable tax code, Inland Revenue may recommend a prospective change to the tax code and, with consent of the individual, notify the employer of the change.

Example 1: Susanna

Susanna earns a salary of $42,000 per annum. Her current tax code is "M", which is a code that she is entitled to use. Given that Susanna earns below $44,000, she is entitled to the full independent earner tax credit of $520 per year. In order to obtain this tax credit Susanna would need to be on an "ME" tax code or, if she has a student loan "ME SL".

As a result of the changes, Inland Revenue would contact Susanna and let her know that an "ME" tax code would be a more appropriate code for her to be on. If Susanna consents to the change, Inland Revenue will instruct her employer to update her tax code to "ME".

The new tax code would apply to PAYE income earned after the employer has been instructed to change the tax code or rate.

Use of unsuitable RWT rates – Section 25A

Section 25A provides that Inland Revenue may contact an individual regarding their use of an unsuitable tax rate for their investment interest income and recommend a prospective change to a more suitable RWT rate.

If the taxpayer consents to the change, Inland Revenue will notify the investment income payer. Once notified of the rate change, the investment income payer must update this as soon as reasonably practicable. If the taxpayer subsequently notifies the income payer of a different rate, the payer must apply the rate notified by the taxpayer.

Example 2: Thomas

Thomas set up an interest-bearing bank account ten years ago. He selected the 17.5% tax rate, which was right at the time.

Thomas earns more now than he did ten years ago, so in order to have tax deducted at the most appropriate tax rate he should have increased the tax rate, but he didn’t think of this.

Thomas earned $1,000 of interest this year, from which his bank withheld $175 of tax. Because Thomas’ marginal tax rate has increased to 33%, $330 would have been a more appropriate amount to withhold (33% tax rate). As his tax rate was not updated, Thomas will be required to pay $155 of outstanding tax ($330 - $175) at the end of the year because less tax was withheld from his interest income than is ultimately due on that interest income.

Due to the changes, Inland Revenue could contact Thomas and let him know that 33% is likely to be a more appropriate tax rate for his interest income. If Thomas consents to the change, Inland Revenue will instruct the bank to change the rate to 33%.

TAILORED (SPECIAL) TAX CODES

Sections 24D and 24DB of the Tax Administration Act 1994

Several amendments have been made to enable Inland Revenue to help individuals use tailored tax codes to ensure that the rate of withholding tax on their income, including secondary sources of income, is appropriate during the year.

Background

A special tax code, now referred to as a tailored tax code, applies a tailored rate of withholding to a taxpayer's income. When a person is working multiple jobs or working while receiving a benefit from the Ministry of Social Development, a tailored tax code can help ensure that the individual pays about the right amount of tax during the year and is not left with a large tax bill or refund at year-end.

Although secondary tax codes and special tax codes were available to individuals under previous law, there were several limitations with that system that are rectified by this Act.

Secondary tax codes

Secondary tax codes are intended to ensure that income from a subsequent job is taxed at the appropriate marginal rate.

Example 1: George and Mary

George has one job with a salary of $53,000 on which he will pay $8,920 in tax each year. This is comprised of $1,470 of tax paid on the first $14,000 of income at 10.5%, $5,950 from $14,001-$48,000 taxed at 17.5% and $1,500 from $48,001–$53,000 taxed at 30%.

Mary earns $48,000 from her main job and $5,000 from her second job ($53,000 total) on which she will also pay $8,920 in tax each year. This is comprised of $1,470 tax paid on the first $14,000 at 10.5%, $5,950 from $14,001–$48,000 taxed at 17.5% and then, because a secondary tax code is applied at her marginal rate, the $5,000 from her second job will be taxed at 30%, resulting in $1,500.

The above example demonstrates that secondary tax codes will work as intended when an income tax threshold has not been crossed. However, as we have a progressive personal tax scale, secondary tax codes can result in more tax being withheld during the year than is necessary to satisfy the individual's tax liability. This occurs when income from a second job takes a person's total income over a tax threshold.

Example 2: Sophie

Sophie earns $35,000 from her main job and $18,000 from her second job ($53,000 total) on which she will pay $10,545 in tax each year. This is comprised of $1,470 tax paid on the first $14,000 at 10.5%, $3,675 from $14,001–$35,000 taxed at 17.5% and then, because a secondary tax code is applied at her marginal rate, the $18,000 from her second job will be taxed at 30%, resulting in $5,400.

Sophie will be owed a refund of $1,625 at the end of the tax year.

Example 2 above results in an overpayment of tax because, by taxing the entire $18,000 that Sophie earns from her second job at her marginal tax rate of 30%, the secondary tax code operates to deny Sophie the full use of the middle tax band. In her case, only income from $14,000 – $35,000 was taxed at 17.5%, as opposed to income from $14,000 – $48,000. Secondary tax codes are set at a taxpayer's marginal rate to prevent multiple claims to the lowest (or lower) tax rates for people with multiple sources of PAYE income. If it weren't for secondary tax codes, taxpayers may receive an unexpected tax bill at the end of the year.

Consider example 3 below:

Example 3: Sophie

If Sophie used an "M" tax code for both of her jobs, then the following would apply:

Job 1 (salary of $35,000): $1,470 tax paid on the first $14,000 at 10.5%, $3,675 from $14,001-$35,000 taxed at 17.5% = $5,145.

Job 2 (salary of $18,000): $1,470 paid on the first $14,000 at 10.5% and $700 tax paid on income from $14,000-$18,000 taxed at 17.5% = $2,170

Total tax paid = $7,315 (compared with $8,920 that should be paid by somebody earning $53,000).

Sophie will have tax to pay of $1,605 at the end of the tax year.

As example 3 demonstrates, Sophie would have a tax bill of $1,605 at year-end if she used the M tax code for both of her jobs. Secondary tax codes are a somewhat blunt instrument designed to prevent over and under deductions from arising as they can only apply at a taxpayer's marginal rate. This works where the secondary income doesn't cross a tax threshold but causes the taxpayer to overpay tax if it does cross a threshold. Secondary tax codes are still used as the default option as they work in the majority of cases and because a more blended or tailored rate cannot be applied by default without knowing a taxpayer's pattern of earnings.

In order to limit instances of incorrect withholding, individuals who work multiple jobs and are able to estimate their likely annual income could opt for a tailored tax code, which gives a withholding rate that is tailored to their personal circumstances.

Tailored (special) tax codes

Although the previous system allowed an individual to apply for a special tax code to help ensure that the correct amount of tax was withheld during the year, special tax codes were not easily accessible to all individuals. This was because:

- an individual first needed to know about special tax codes;
- they needed to realise that using one could benefit them; and
- they needed to be able to estimate their likely annual income.

The process for obtaining a special tax code was also administratively burdensome and required an individual to fill out an application and post it to Inland Revenue. Inland Revenue would then calculate the appropriate withholding rate and grant the individual a special tax code and a certificate that was only valid until the end of the tax year. The individual was then required to advise their employer that they wanted the special tax code applied to their income. As a consequence of all of this, only approximately 8,000 individuals used a special tax code for the 2016 year (approximately 570,000 people were using secondary tax codes and a larger proportion of these people could have benefitted from using a special tax code if their secondary income took them over a tax threshold).

Key features

The newly enacted provisions make tailored tax codes more accessible and customer centric. The changes are as follows:

- The process of applying for a tailored tax code has been simplified (including being able to apply online).
- Inland Revenue will monitor changes in a person's earnings and identify when a person may benefit from using a tailored tax code.
- Inland Revenue will proactively contact individuals who may benefit from using a tailored tax code and recommend that they consider changing their code.
- When an individual has consented to a change to a tailored tax code, Inland Revenue will notify an individual's employer of their updated tax code.

Application date

The amendments apply from 1 April 2019.

Detailed analysis

Tax codes provided by the Commissioner – Section 24D

Section 24D has been amended to allow the Commissioner to recommend a tailored tax code to an employee.

The amendment to this provision ensures that Inland Revenue can recommend tailored tax codes as part of the proactive actions it undertakes. That is, where the information Inland Revenue receives about an individual suggests that the individual may end up with an under or overpayment of tax because of the withholding rate they are using, the Commissioner can recommend a tailored tax code to help the taxpayer to pay the right amount of tax during the year.

Use of unsuitable tax codes – Section 24DB

As previously mentioned under "proactive actions", when a taxpayer who receives PAYE income is on an unsuitable tax code, section 24DB allows Inland Revenue to recommend a prospective change to that code, and with the consent of the individual, notify the employer of the change. A change to a more suitable code includes a change to a tailored tax code.

Example 4: Sophie

The following example demonstrates how a proactive action could be used to assist Sophie in selecting a tailored tax code. As per the previous example, Sophie earns $35,000 per annum from her main job and $18,000 per annum from her second job. The secondary tax code that applies to her second job means that all income she earns from this source is taxed at her marginal tax rate of 30%.

Sophie's tax year commences 1 April 2019. Inland Revenue receives Sophie's salary and tax information by way of pay day reporting and, after a few weeks, notices that Sophie has a regular pattern of earnings that is currently being overtaxed. As set out in the initial example with Sophie, if the current rate of taxation continues, Sophie will be owed a refund of $1,625 at year-end. This is money that Sophie could be using during the year.

Inland Revenue writes to Sophie to advise her that she may benefit from a tailored tax code. The aim behind the tailored code is to ensure that, where possible, there is no refund due or tax to pay at year-end. This means that the tailored rate of tax required to be applied to Sophie's secondary income will vary slightly based on the point during the tax year at which it is adopted. This is because the tailored tax code should take into account any under or over withholding that occurs at any point during the tax year to try to reach a net zero position at year-end. Consider the following variations:

Example 4a

Inland Revenue writes to Sophie twelve weeks after the commencement of the tax year and Sophie immediately consents to a tailored tax code.

Assuming Sophie is paid weekly, in this situation Sophie would have received twelve pays from her second job from which tax had been over withheld, representing an over withholding of $375. To ensure that Sophie has no tax to pay or refund due at year-end, the tailored tax code that would need to be applied to Sophie's second source of income going forward will be approximately 18%. As Sophie has consented to this rate, Inland Revenue will instruct the employer at her second job to update the rate.

Example 4b

Although Sophie receives Inland Revenue's letter suggesting she accept a tailored tax code twelve weeks into the tax year, Sophie does not get in contact with Inland Revenue to set up a tailored tax code for a further six weeks. This means that Sophie will have received 18 pays from her second job from which tax had been over withheld, representing an over withholding of $562.50. For Sophie to have no tax to pay or refund due at year-end, the tailored tax code that would need to be applied to Sophie's second source of income going forward will be approximately 16%.

Example 4 above demonstrates that, in order to ensure that a taxpayer pays about the right amount of tax during the year, a tailored tax code needs to not only consider pay periods going forward, but also needs to consider any under or over withholding that occurred earlier in the tax year.

It is noted that there are some situations where it may not be appropriate to use a tailored tax code to ensure a "net zero" position at year-end. For example, a tailored tax code that fully recovers the underpaid tax would be unsuitable if a taxpayer has had their tax under withheld and there are not enough pay periods left until the end of the year to correct the under withholding without putting the taxpayer into hardship.

Inland Revenue will take this into account when deciding whether it's appropriate to recommend a tailored tax code to a taxpayer. This should prevent any hardship caused by imposing a very high tailored rate for any remaining pay periods for the tax year.

THE ADMINISTRATION OF DONATIONS TAX CREDITS

Section 41A of the Tax Administration Act 1994

Several amendments have been introduced to simplify the process for claiming donation tax credits. Inland Revenue will now accept donation receipts which are submitted electronically via myIR and submitted during the year. There is the option to file a separate donation tax credit claim if the payer chooses to do so.

Background

Previously, credits for donations could be claimed at the end of the tax year by filling in a tax credit claim form (IR526), or during the year through Payroll Giving, where the credits would be received immediately. An IR526 is a paper-based form, and paper versions of receipts had to be saved and submitted with this form at the end of the year.

These changes simplify the process for claiming donation tax credits and make it more flexible. Under the changes, they have the option to submit receipts electronically when they receive them, which reduces the risk that they could be forgotten or lost before being able to be submitted. The tax credit claim process (the IR526) will be retained as an option for those who prefer to file their donation tax credit claim separately. At year-end, if a person has submitted donation receipts during the year and Inland Revenue considers the person is entitled to the donation tax credit, the refund will be issued without the need to submit a tax credit claim request.

Key features

The key changes are as follows:

- Donations receipts can be submitted during the year and can be submitted electronically.
- Donations tax credits can be claimed as part of the income tax year-end process.
- If an individual has already submitted receipts during the year, these will automatically be taken into account without the individual having to fill in a separate claim form.

Application date

These amendments apply from 1 April 2019.

Detailed analysis

Returns by persons with tax credits for charitable or other public benefit gifts (section 41A amended)

Section 41A(1) prescribes the ways in which a person may apply to have their tax credit refunded. In practice, a person may:

- upload donation receipts through myIR during the year;
- complete the relevant donation section when providing other income information through the pre-populated account;

- complete a separate return online through myIR (that is – if done after other income information is provided); or
- complete a paper form.

Example 1: Olivia

Olivia is crazy about animals and always donates money each week to a local animal charity that campaigns outside her office building. Olivia is tax savvy and always ensures that she receives a receipt with each donation. Under the changes, Olivia does not have to wait until the end of the year to submit her receipts with the paper based IR526 form at the end of the year.

Each time she donates, Olivia uploads her receipts electronically on myIR. At year-end Olivia receives the refund automatically without having to do anything.

Section 41A(6B) ensures that donation tax credit claims are subject to the same time bar rules that apply to income tax returns. This means that the Commissioner cannot amend a tax credit claim (either adjust up or down) after 4 years have passed from the end of the tax year in which the taxpayer submits the donation tax credit claim.