

## **Subpart MA—General provisions**

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## *Introductory provisions*

### **MA 1 What this Part does**

This Part provides certain rules of general application for recording amounts as credits and debits to a memorandum account.

Defined in this Act: memorandum account

### **MA 2 Memorandum accounts**

#### *Types of account in this Part*

- (1) The following are dealt with in this Part—
- (a) an imputation credit account (subparts MB and MP):
  - (b) an FDWP account (subparts MC and MP):
  - (c) a conduit tax relief account (subparts MD and MP):
  - (d) a branch equivalent tax account (subparts ME and MP):
  - (e) an ASC account (subpart MF):
  - (f) a policyholder credit account (subparts MJ and MP):
  - (g) a Maori authority credit account (subpart MK).

#### *Role of accounts*

- (2) A memorandum account is an account listed in subsection (1) that provides a record of the credits and debits arising in the account.

#### *Tax year*

- (3) A memorandum account is maintained for a tax year unless a provision in Part M expressly states otherwise.

#### *Tables*

- (4) The credits and debits that arise in a memorandum account are listed in tables in each of the subparts. The tables—
- (a) state the credits and the debits; and
  - (b) state the credit dates and debit dates when the credits and debits arise; and
  - (c) refer to the section that fully defines the credits and debits, and provides their credit dates and debit dates.

#### *Determination*

- (5) The Commissioner may issue a determination under section 104A of the Tax Administration Act 1994 adjusting the amount of a credit or debit, or a credit date

or debit date recorded in a memorandum account if the Commissioner considers the amount or date is not correct. The determination may be reviewed in challenge proceedings under Part 8A of the Tax Administration Act 1994.

Defined in this Act: ASC account, branch equivalent tax account, Commissioner, conduit tax relief account, FDWP account, imputation credit account, Maori authority credit account, memorandum account, policyholder credit account, tax year

Origin: 2004 No 35 ss ME 1(1), ME 3(1), ME 10(1), (1A)-(1C), ME 15, ME 17(1), ME 20, ME 21(1), ME 22(1), ME 25, ME 26, ME 40, MF 1(1), MF 3(1), MF 6, MF 7(1), MF 11(1), MF 8, MF 12(1), MG 2(1), MG 3, MG 10(1), MG 12, MG 13(1), MG 14(1), MG 15(1), MI 2(1), (4), MI 3, MI 14, MI 17(1), MI 18(1), MJ 1(1), MJ 3(1), MK 1(1), MK 3(1)

### **MA 3 General rules for maintaining memorandum accounts**

#### ***What this section does***

- (1) This section sets out the rules that apply in relation to a memorandum account to a person who is—
  - (a) required to maintain a memorandum account; or
  - (b) entitled to choose to maintain an account.

#### ***Record***

- (2) A person who maintains a memorandum account must record all credits and all debits that arise in the account as at their credit date or debit date. The credits and debits are listed in provisions in the relevant subpart for each type of memorandum account.

#### ***Credit balances***

- (3) The credit balance recorded in a memorandum account during a tax year or income year, as applicable, is the excess of credits over debits.

#### ***Debit balances***

- (4) The debit balance recorded in a memorandum account during a tax year or income year, as applicable, is the excess of debits over credits.

Defined in this Act: amount, memorandum account, tax year

Origin: 2004 No 35 ss ME 2, ME 3(1), MG 10(1), ME 16, ME 17(1), ME 22(1), ME 26, MF 2, MF 3(1), MF 8, MF 12(1), MG 1, MG 3(1), MG 14(1), MG 15(1), MI 1, MI 3, MI 17(1), MI 18(1), MJ 2, MJ 3(1), MK 2, MK 3(1)

#### **MA 4 Certain credits and debits arising only in group accounts**

Certain credits or debits of a consolidated group may arise only in the memorandum account of the group and not in the memorandum account of a group company.

Defined in this Act: consolidated group, memorandum account

Origin: 2004 No 35 ss ME 13, ME 28(4), MF 9, MG 16, MI 19

### *Credits and debits*

#### **MA 5 Credits**

##### *What this section does*

- (1) This section defines the credits that arise under this Part in a memorandum account listed in section MA 2(1).

##### *Imputation credits*

- (2) A credit is an imputation credit if it is an amount described in a row of table M1: imputation credits or table M19: imputation credits of consolidated imputation groups.

##### *FDWP credits*

- (3) A credit is an FDWP credit if it is an amount described in a row of table M3: FDWP credits or table M21: FDWP credits of consolidated FDWP groups.

##### *Conduit tax relief credits*

- (4) A credit is a conduit tax relief credit if it is an amount described in a row of table M5: conduit tax relief credits or table M23: conduit tax relief credits of consolidated groups.

##### *Branch equivalent tax credits*

- (5) A credit is a branch equivalent tax credit if it is an amount described—
- (a) for a BETA company, in a row of table M7: branch equivalent tax credits:
  - (b) for a BETA person, in a row of table M9: person's branch equivalent tax credits:
  - (c) for a consolidated BETA group, in a row of table M25: branch equivalent tax credits of consolidated BETA groups.

##### *ASC account credits*

- (6) A credit is an ASC account credit if it is an amount described in a row of table M11: ASC account credits.

***Policyholder credits***

- (7) A credit is a policyholder credit if it is an amount described—
- (a) for a PCA company, in a row of table M13: policyholder credits:
  - (b) for a PCA person, in a row of table M15: person’s policyholder credits:
  - (c) for a consolidated group with a policyholder credit account, in a row of table M27: policyholder credits of consolidated groups.

***Maori authority credits***

- (8) A credit is a Maori authority credit if it is an amount described in a row of table M17: Maori authority credits.

Defined in this Act: amount, ASC account credit, BETA company, BETA person, branch equivalent tax credit, conduit tax relief credit, consolidated BETA group, consolidated FDWP group, consolidated group, consolidated imputation group, FDWP credit, imputation credit, Maori authority credit, memorandum account, PCA company, PCA person, policyholder credit

**MA 6 Debits**

***What this section does***

- (1) This section defines the debits that arise under this Part in a memorandum account listed in section MA 2(1).

***Imputation debits***

- (2) A debit is an imputation debit if it is an amount described in a row of table M2: imputation debits or table M20: imputation debits of consolidated imputation groups.

***FDWP debits***

- (3) A debit is an FDWP debit if it is an amount described in a row of table M4: FDWP debits or table M22: FDWP debits of consolidated FDWP groups.

***Conduit tax relief debits***

- (4) A debit is a conduit tax relief debit if it is an amount described in a row of table M6: conduit tax relief debits or table M24: conduit tax relief debits of consolidated groups.

***Branch equivalent tax debits***

- (5) A debit is a branch equivalent tax debit if it is an amount described—
- (a) for a BETA company, in a row of table M8: branch equivalent tax debits:
  - (b) for a BETA person, in a row of table M10: person’s branch equivalent tax debits:
  - (c) for a consolidated BETA group, in a row of table M26: branch equivalent tax debits of consolidated BETA groups.

***ASC account debits***

- (6) A debit is an ASC account debit if it is an amount described in a row of table M12: ASC account debits.

***Policyholder debits***

- (7) A debit is a policyholder debit if it is an amount described—
- (a) for a PCA company, in a row of table M13: policyholder debits:
  - (b) for a PCA person, in a row of table M16: person’s policyholder debits:
  - (c) for a consolidated group with a policyholder credit account, in a row of table M28: policyholder debits of consolidated groups.

***Maori authority debits***

- (8) A debit is a Maori authority debit if it is an amount described in a row of table M18: Maori authority debits.

Defined in this Act: amount, ASC account debit, BETA company, BETA person, branch equivalent tax debit, conduit tax relief debit, consolidated group, consolidated imputation group, FDWP debit, imputation debit, Maori authority debit, memorandum account, PCA company, PCA person, policyholder debit

***Opening balances***

**MA 7 Opening balances of memorandum accounts**

***Balances carried forward***

- (1) The opening balance of a memorandum account listed in section MA 2(1) at the start of a tax year or income year, as applicable, is the closing balance of the account in the previous tax year or income year, as applicable.

***Credit date***

- (2) The credit date for an opening balance is,—
- (a) for an imputation credit account, the first day of the tax year:
  - (b) for an FDWP account, the first day of the tax year:
  - (c) for conduit tax relief account, the first day of the tax year:
  - (d) for branch equivalent tax account—
    - (i) of a BETA company, the first day of the tax year; or
    - (ii) of a BETA person, the first day of the income year; or
    - (iii) of a consolidated BETA group, the first day of the tax year:
  - (e) for an ASC account, the first day of the tax year:
  - (f) for a policyholder credit account—
    - (i) of a PCA company, the first day of the tax year; or

- (ii) of a PCA person, the first day of the income year; or
- (iii) of a consolidated group, the first day of the tax year:
- (g) for a Maori authority credit account, the first day of the tax year.

***First year***

- (3) If a consolidated group, company, or person starts a memorandum account listed in section MA 2(1) during a tax year, no credit for an opening balance arises in the account. But this subsection does not apply—
- (a) when 2 consolidated imputation groups choose to combine to form, or to join, an imputation group, for which see section MP 3(2) (Changes in consolidated imputation groups):
  - (b) when the companies that are part of an imputation group choose to convert their status to that of a consolidated imputation group, for which see section MP 3(3):
  - (c) to a resident imputation subgroup associated with a trans-Tasman imputation group, for which see section MP 4 (Resident imputation subgroups).

Defined in this Act: company, consolidated BETA account, consolidated group, income year, memorandum account, tax year

Origin: 2004 No 35 ss ME 3(2), ME 10(1A)-(1C), (2), ME 17(2), ME 22(2), ME 26(1), MF 3(2), MF 8(1), MF 12(2), MG 3(2), MG 13(3), MI 3(2), MI 15, MJ 3(2), MJ 4(2), MJ 7(1), MK 3(2)

***Shareholder continuity requirements***

**MA 8 Shareholder continuity requirements for memorandum accounts**

***When this section applies***

- (1) This section applies when a company or a consolidated group maintains a memorandum account listed in section MA 2(1).

***Shareholder continuity requirement***

- (2) An amount that is a credit in the account may be carried forward from a credit date to a later time only if the company or consolidated group who has the credit maintains a 66% continuity of shareholding under subsection (7) from the credit date to the later time. Subsections (4) and (5) override this subsection.

***Continuity***

- (3) A credit is treated as continuing to exist to the extent to which it is not reduced by an earlier or later debit arising in the account.

***Exclusion: ASC accounts and policyholder credit accounts***

- (4) Subsection (2) does not apply to an ASC account or a policyholder credit account.

***Modification: conduit tax relief accounts***

- (5) The general rule in subsection (2) is modified by section MD 16 (CTRA increase in resident shareholding) for conduit tax relief accounts.

***When breach occurs***

- (6) For a memorandum account and for a company or consolidated group which maintains the account at the time of a breach in continuity of shareholding under subsection (7), a debit arises under the relevant section in each subpart only to the extent to which an unused amount of credit remains in the memorandum account.

***Shareholder continuity requirement***

- (7) The shareholder continuity requirement means, while some or all of the credit still exists, a group of persons must continue to hold—
- (a) aggregate minimum voting interests in a company or group of at least 66%; or
  - (b) if a market value circumstance exists for a company or, in the case of a consolidated group, a group company, aggregate minimum market value interests in the company or group of at least 66%.

***Modifications***

- (8) The following rules apply for the purposes of subsection (7):
- (a) the minimum interest referred to in subsection (7)(a) or (b) of a person must be counted if their interests change after the credit arises; and
  - (b) a credit retains its separate character and is not treated as part of a credit described in section MA 7 in a later tax year; and
  - (c) the amount by which a credit is reduced by an earlier or later debit is found by—
    - (i) treating debits as reducing credits in the order in which credits arise; and
    - (ii) counting an amount of a debit only once in the reduction of some or all of a credit; and
    - (iii) applying any relevant terminating modifications set out in section MZ 4 (Terminating modifications to debits for loss of shareholder continuity) for a credit arising before 1 April 1992.

Defined in this Act: amount, branch equivalent tax account, conduit tax relief account, FDWP account, group of persons, imputation account, Maori authority credit account, market value circumstance, market value interest, memorandum account, shareholder, tax year, voting interest

Origin: 2004 No 35 ss ME 5(3), ME 12(1)(h), ME 13(2), (4), MF 4(5), MF 8(4), MG 15(1), MI 5(3)-(7), MI 18(1)(e), (3), (4), MK 5(3), (4)



## ***Treatment of credits and debits on qualifying amalgamation***

### *General provision*

#### **MA 9 General treatment of credits and debits on qualifying amalgamation**

##### ***When this section applies***

- (1) This section applies—
  - (a) on a qualifying amalgamation, in relation to an amalgamated company and a memorandum account, if an amalgamating company ceases to exist on the amalgamation and, at the time of the amalgamation, the company maintained 1 or more memorandum accounts; and
  - (b) for the purposes of section MA 8(7)(b) and (8) in determining at a time after the amalgamation whether continuity of shareholding is maintained for a credit or debit in a memorandum account referred to in section MA 2(1)(a) to (d) and (f).

##### ***Treatment of pre-amalgamation credits and debits***

- (2) A credit or debit recorded in the memorandum account of the amalgamating company before the date of the amalgamation is treated as if it were recorded in the same type of account of the amalgamated company on the date it was recorded in the amalgamating company's account.

##### ***Avoidance provisions***

- (3) For the purpose of determining the credits and debits in the memorandum account of an amalgamating company, sections GC 21, GC 26, and GC 27 (which relate to arrangements to defeat the application of certain provisions) apply, modified as necessary.

Defined in this Act: amalgamating company, amalgamation, consolidated group, memorandum account

Origin: 2004 No 35 ss ME 29(1)(a), MF 16(1)(a), MG 17(1)(a), MI 13

### *When companies amalgamate*

#### **MA 10 Memorandum accounts on qualifying amalgamation**

##### *When this section applies*

- (1) This section applies on a qualifying amalgamation if, at the time of the amalgamation, an amalgamating company maintains—
  - (a) an imputation credit account:
  - (b) an FDWP account:
  - (c) a conduit tax relief account:
  - (d) a branch equivalent tax account:
  - (e) a policyholder credit account.

##### *Credits and debits due*

- (2) A credit or a debit due to the amalgamating company but not recorded in its account before the date of amalgamation is recorded in the same type of memorandum account of the amalgamated company. Subsections (3) and (4) override this subsection.

##### *Exclusion: shareholder continuity rules*

- (3) Subsection (2) does not apply to—
  - (a) a debit for loss of shareholder continuity in an imputation account described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity):
  - (b) a debit for an increase in resident shareholding in a conduit tax relief account described in table M6: conduit tax relief debits, row 8 (increase in resident shareholding):
  - (c) a credit or debit in a branch equivalent tax account described in table M7: branch equivalent tax credits, row 5 (credit for loss of shareholder continuity) and table M8: branch equivalent tax debits, row 5 (debit for loss of shareholder continuity).

##### *Recording in imputation credit account*

- (4) If the amalgamated company does not maintain a memorandum account referred to in subsection (1)(b), (c), and (e), the credit or debit is recorded in the imputation credit account of the amalgamated company. See sections MA 11 to MA 13.

Defined in this Act: amalgamated company, amalgamating company, imputation credit, imputation credit account, imputation debit, qualifying amalgamation

Origin: 2004 No 35 s ME 29(1), MF 16(1), MG 17(1), MI 13

## **MA 11 FDWP account on qualifying amalgamation**

### ***When this section applies***

- (1) This section applies on a qualifying amalgamation if—
  - (a) an amalgamating company ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the company maintained an FDWP account; and
  - (c) the amalgamated company does not maintain an FDWP account.

### ***Credits and debits due***

- (2) A credit or a debit due to the amalgamating company but not recorded before the date of amalgamation is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
  - (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation);  
or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, FDWP account, FDWP credit, FDWP debit, imputation credit, imputation credit account, imputation debit, qualifying amalgamation

Origin: 2004 No 35 s MG 17(1)

## **MA 12 Conduit tax relief account on qualifying amalgamation**

### ***When this section applies***

- (1) This section applies on a qualifying amalgamation if—
  - (a) an amalgamating company ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the company maintains a conduit tax relief account; and
  - (c) the amalgamated company does not maintain a conduit tax relief account.

### ***Credits and debits due***

- (2) A credit or a debit due to the amalgamating company but not recorded before the date of amalgamation, is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
  - (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation);  
or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, conduit tax relief account, conduit tax relief company, conduit tax relief debits, FDWP, imputation credit, imputation credit account, imputation debit, qualifying amalgamation, resident

Origin: 2004 No 35 s MI 13(6)

### **MA 13 Policyholder credit account on qualifying amalgamation**

#### ***When this section applies***

- (1) This section applies on a qualifying amalgamation if—
- (a) an amalgamating company ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the company maintains a policyholder credit account; and
  - (c) the amalgamated company does not maintain a policyholder credit account.

#### ***Credits and debits due***

- (2) A credit or a debit due to the amalgamating company but not recorded in the account before the date of amalgamation, is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
- (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation);  
or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, imputation credit, imputation credit account, imputation debit, policyholder credit account, policyholder credit account company, qualifying amalgamation

Origin: 2004 No 35 s ME 29(1)

### ***Amalgamation of companies in consolidated groups***

### **MA 14 Continuity of shareholding when group companies amalgamate**

#### ***What this section does***

- (1) This section and sections MA 15 to MA 17 apply when all the companies in a consolidated group or consolidated imputation group amalgamate on a qualifying amalgamation, and the amalgamation results in—
- (a) the end of the group's existence; and
  - (b) the formation of an amalgamated company.

***Other company***

- (2) The amalgamation may include a company that is not part of the consolidated group or consolidated imputation group.

***Continuity of shareholding: credits and debits***

- (3) Subsection (4) applies for the purposes of section MA 8(7)(b) and (8) in determining at a time after the qualifying amalgamation whether continuity of shareholding is maintained for a credit or debit in a memorandum account referred to in section MA 2(1)(a), (b), (d) and (f).

***Treatment of pre-amalgamation credits and debits***

- (4) A credit or debit recorded in the memorandum account of the consolidated group before the date of the amalgamation is treated as if it were recorded in the same type of account of the amalgamated company on the date it was recorded in the group's account. For this purpose, voting interests in the group from that time are treated as if they were the only voting interests in the amalgamated company.

***Avoidance provisions***

- (5) For the purposes of determining the credits and debits in the memorandum account of a consolidated group, sections GC 21, CG 26, and GC 27 (which relate to arrangements to defeat the application of certain provisions) apply, modified as necessary.

Defined in this Act: amalgamated company, consolidated group, consolidated imputation group, memorandum account, qualifying amalgamation, shareholder, voting interest

Origin: 2004 No 35 s ME 29(2)(a), MF 16(2)(a), MG 17(2)(a)

**MA 15 When credits or debits due but not recorded**

***When this section applies***

- (1) This section applies on a qualifying amalgamation described in section MA 14 when, at the time of the amalgamation, a consolidated group maintains—
- (a) an imputation credit account:
  - (b) an FDWP account:
  - (c) a branch equivalent tax account:
  - (d) a policyholder credit account.

***Credits and debits due***

- (2) A credit or a debit due to the consolidated group but not recorded in its account before the date of amalgamation is recorded in the same type of memorandum account of the amalgamated company. Subsections (3) and (4) override this subsection.

***Exclusion: shareholder continuity rules***

- (3) Subsection (2) does not apply to—
- (a) a debit for loss of shareholder continuity in an imputation account described in table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity);
  - (b) a debit for an increase in resident shareholding in a conduit tax relief account described in table M24: conduit tax relief debits of consolidated groups, row 6 (increase in resident shareholding);
  - (c) a credit or debit in a branch equivalent tax account described in table M25: branch equivalent tax credits, row 5 (credit for loss of shareholder continuity) and table M26: branch equivalent tax debits, row 5 (debit for loss of shareholder continuity).

***Recording in imputation credit account***

- (4) If the amalgamated company does not maintain a memorandum account referred to in subsection (1)(b) or (d), the credit or debit is recorded in the imputation credit account of the amalgamated company. See sections MA 16 and MA 17.

Defined in this Act: amalgamated company, amalgamating company, imputation credit, imputation credit account, imputation debit, qualifying amalgamation, shareholder, voting interest

Origin: 2004 No 35 s ME 29(2)(b), MF 16(2)(B), MG 17(2)(b)

**MA 16 When FDWP account ends on qualifying amalgamation**

***When this section applies***

- (1) This section applies on a qualifying amalgamation described in section MA 14 if—
- (a) a consolidated group ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the group maintained an FDWP account; and
  - (c) the amalgamated company does not maintain an FDWP account.

***Credits and debits due***

- (2) A credit or a debit due to the group but not recorded before the date of amalgamation is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
- (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation);  
or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, FDWP account, FDWP debit, imputation credit, imputation credit account, imputation debit, qualifying amalgamation, shareholder

Origin: 2004 No 35 s MF 17(2)(b)

## **MA 17 When policyholder credit account ends on qualifying amalgamation**

### ***When this section applies***

- (1) This section applies on a qualifying amalgamation described in section MA 14 if,—
- (a) a consolidated group ceases to exist on the amalgamation; and
  - (b) at the time of the amalgamation, the group maintained a policyholder credit account; and
  - (c) the amalgamated company does not maintain a policyholder credit account.

### ***No policyholder credit account***

- (2) A credit or a debit due to the group but not recorded before the date of amalgamation is recorded in the imputation credit account of the amalgamated company described in, as appropriate,—
- (a) table M1: imputation credits, row 20 (credit on qualifying amalgamation);  
or
  - (b) table M2: imputation debits, row 23 (debit on qualifying amalgamation).

Defined in this Act: amalgamated company, amalgamating company, imputation credit, imputation credit account, imputation debit, policyholder credit account, qualifying amalgamation

Origin: 2004 No 35 s ME 29(2)