

## **Subpart MB—Imputation credit accounts**

### **Contents**

#### *Introductory provisions*

- MB 1 General rules for companies with imputation credit accounts
- MB 2 Australian companies with imputation credit accounts
- MB 3 Imputation credit accounts

#### *Imputation credits*

Table M1: imputation credits

- MB 4 ICA payment of tax
- MB 5 ICA deposit in tax pooling account
- MB 6 ICA transfer from tax pooling account
- MB 7 ICA payment of further income tax
- MB 8 ICA deduction of resident withholding tax
- MB 9 ICA derivation of dividend with imputation credit
- MB 10 ICA derivation of dividend with FDWP credit
- MB 11 ICA payment of FDWP
- MB 12 ICA transfer from FDWP account
- MB 13 ICA debit balance on leaving wholly-owned group
- MB 14 ICA payment of tax on leaving wholly-owned group
- MB 15 ICA payment of tax on joining wholly-owned group
- MB 16 ICA attribution for personal services
- MB 17 ICA transfer from policyholder credit account
- MB 18 ICA transfer from ASC account
- MB 19 ICA transfer to master fund
- MB 20 ICA distribution with Maori authority credit
- MB 21 ICA balance of Maori authority credit account
- MB 22 ICA credit on qualifying amalgamation
- MB 23 ICA reversal of tax advantage arrangement
- MB 24 ICA elimination of double debit
- MB 25 ICA deduction of non-resident withholding tax

- MB 26 ICA deduction from withholding payment
- MB 27 ICA payment of schedular income tax

***Imputation debits***

Table M2: imputation debits

- MB 28 ICA payment of dividend
- MB 29 ICA allocation of provisional tax
- MB 30 ICA refund of income tax
- MB 31 ICA amount applied to pay other taxes
- MB 32 ICA refund from tax pooling account
- MB 33 ICA transfer within tax pooling account
- MB 34 ICA refund of FDWP
- MB 35 ICA refund of tax credit
- MB 36 ICA overpayment of FDWP
- MB 37 ICA transfer from net foreign attributed income
- MB 38 ICA attribution for personal services
- MB 39 ICA debit for loss of shareholder continuity
- MB 40 ICA on-market cancellation
- MB 41 ICA breach of imputation ratio
- MB 42 ICA debit on leaving wholly-owned group
- MB 43 ICA redemption debit
- MB 44 ICA transfer to member fund
- MB 45 ICA transfer to policyholder credit account
- MB 46 ICA credit balance when Maori authority credit account starts
- MB 47 ICA imputation credit of consolidated imputation group
- MB 48 ICA debit on qualifying amalgamation
- MB 49 ICA tax advantage arrangement
- MB 50 ICA retrospective imputation credit
- MB 51 ICA final balance
- MB 52 ICA refund of non-resident withholding tax
- MB 53 ICA refund of withholding payment
- MB 54 ICA refund of schedular income tax

***Imputation credits attached to dividends***

- MB 55 Imputation credits attached to dividends
- MB 56 ICA benchmark dividend rules

MB 57 Retrospective attachment of imputation credits

***Further income tax***

- MB 58 Further income tax for ICA closing debit balance
- MB 59 Further income tax when company stops being ICA company
- MB 60 Reduction of further income tax
- MB 61 Income tax paid satisfying liability for further income tax
- MB 62 Further income tax paid satisfying liability for income tax
- MB 63 Application of other provisions

***Additional income tax***

- MB 64 Additional income tax on leaving wholly-owned group
- MB 65 Additional income tax on joining wholly-owned group

***Distributions of statutory producer boards and co-operative companies***

- MB 66 Statutory producer boards attaching imputation credits to cash distributions
- MB 67 Statutory producer boards attaching imputation credits to notional distributions
- MB 68 Statutory producer boards' notional distributions that are dividends
- MB 69 Statutory producer boards attaching FDWP credits
- MB 70 When and how statutory producer board makes election
- MB 71 Co-operative companies attaching imputation credits to cash distributions
- MB 72 Co-operative companies attaching imputation credits to notional distributions
- MB 73 Co-operative companies' notional distributions that are dividends
- MB 74 Co-operative companies attaching FDWP credits
- MB 75 When and how co-operative company makes election

## *Introductory provisions*

### **MB 1 General rules for companies with imputation credit accounts**

#### *New Zealand resident*

- (1) A company that is resident in New Zealand (**ICA company**) must establish and maintain an imputation credit account for a tax year. Subsection (3) overrides this subsection.

#### *New Zealand and Australian resident*

- (2) A company that is resident in both New Zealand and Australia may choose to be an ICA company for a tax year if it meets the requirements in section MB 2.

#### *Exclusions*

- (3) A company that is resident in New Zealand is excluded from being an ICA company if it is—
- (a) a company that—
    - (i) is also resident in another country; or
    - (ii) is acting in the capacity of trustee of a group investment fund to which paragraph (c) of the definition of **company** in section OB 1 (Definitions) applies; or
    - (iii) has a constitution that prohibits a distribution to a shareholder; or
    - (iv) derives only exempt income other than income exempt under sections CW 9 to CW 11 (which relates to income from equity); or
    - (v) has income not completely subject to tax because of the application of a double tax agreement for whose purposes the company is treated as not being resident in New Zealand; or
  - (b) a Maori authority; or
  - (c) a local authority; or
  - (d) a Crown Research Institute; or
  - (e) a subsidiary of the Accident Compensation Corporation affected by section 24 of the Injury Prevention, Rehabilitation, and Compensation Act 2001, or section 334(1) of the Accident Insurance Act 1998.

Defined in this Act: Australian ICA company, company, Crown Research Institute, double tax agreement, exempt income, group investment fund, ICA company, imputation credit account, income, local authority, Maori authority, New Zealand, resident in Australia, resident in New Zealand, shareholder, tax year, trustee

## **MB 2 Australian companies with imputation credit accounts**

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

- (1) This section applies when a company that is resident in both New Zealand and Australia chooses under section MB 1(2) to be an Australian ICA company.

### ***Ineligibility***

- (2) Despite meeting the residency requirements, a company is not eligible to make an election referred to in subsection (1) if—
- (a) the company—
    - (i) is 1 referred to in section MB 1(3)(a)(ii) to (iv), and (c) to (e); or
    - (ii) is treated by a double tax agreement as resident in a country other than New Zealand or Australia for a taxation purpose in New Zealand or Australia; or
  - (b) an earlier election has been revoked by the Commissioner under subsection (7)(b), and the company has not shown the Commissioner that it has taken adequate steps to prevent the grounds of revocation occurring again.

### ***Election, and when status starts***

- (3) The election is made by notifying the Commissioner, and the company must maintain an imputation credit account from—
- (a) the first day of the tax year in which the Commissioner is notified; or
  - (b) if section MB 55 applies, 30 days after the date on which Commissioner receives the notice.

### ***Joint and several liability***

- (4) A company that is included in the same wholly-owned group of companies as an Australian ICA company may have joint and several liability with the Australian ICA company for further income tax, civil penalties, and interest under Part 7 of the Tax Administration Act 1994 imposed on the Australian ICA company for a breach by the company of the imputation rules.

### ***Exclusion***

- (5) Despite subsection (4), no joint and several liability arises if the other company is prohibited by an independent regulatory body from being subject to the liability.

### ***Dividend in Australian currency***

- (6) An Australian ICA company that pays a dividend in Australian currency must make a currency conversion under section MB 55(7).

### ***How status ends***

- (7) A company ends its status as an Australian ICA company if—
- (a) the company revokes the election by notifying the Commissioner; or
  - (b) the Commissioner gives the company notice revoking the election.

***When status ends***

- (8) The company ends its status as an Australian ICA company—
- (a) from the day on which the relevant circumstance of ineligibility in subsection (2) applies; or
  - (b) unless paragraph (c) applies, from the last day of the tax year in which the company or the Commissioner revokes the election; or
  - (c) for the purposes of section MB 55,—
    - (i) when the company notifies the Commissioner, on the date on which the Commissioner receives the notice; or
    - (ii) on the date set out in the Commissioner’s notice.

***Outstanding obligations***

- (9) A company that stops being an Australian ICA company for a tax year must nevertheless satisfy all obligations that the company had as an Australian ICA company.

Defined in this Act: Australian ICA company, Commissioner, company, dividend, double tax agreement, further income tax, imputation credit account, imputation rules, income, New Zealand, notice, notify, pay, resident in Australia, resident in New Zealand, tax year, wholly-owned group

Origin: 2004 No 35 s ME 1A

**MB 3 Imputation credit accounts**

***General rules***

- (1) The general rules on memorandum accounts set out in sections MA 2 and MA 3 (which relate to the treatment of memorandum accounts) apply to an imputation credit account of an ICA company.

***Consolidated imputation groups***

- (2) Under section MP 2 (When credits and debits arise only in group accounts), certain credits and debits do not arise in an ICA company’s memorandum account if the company is part of a consolidated imputation group.

Defined in this Act: consolidated imputation group, ICA company, imputation credit account, memorandum account, tax year

Origin: 2004 No 35 s ME 13(1)

## *Imputation credits*

**Table M1: imputation credits**

Row	Imputation credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Payment of tax</i>		
	Provisional tax and income tax paid	day of payment	section MB 4
3	<i>Deposit in tax pooling account</i>		
	A payment into a tax pooling account	day of payment	section MB 5
4	<i>Transfer from tax pooling account</i>		
	A transfer from a tax pooling account	day of credit	section MB 6
5	<i>Payment of further income tax</i>		
	Further income tax paid	day of payment	section MB 7
6	<i>Deduction of resident withholding tax</i>		
	A deduction of resident withholding tax	day of deduction	section MB 8
7	<i>Derivation of dividend with imputation credit</i>		
	An imputation credit attached to a dividend derived	day the dividend is paid	section MB 9
8	<i>Derivation of dividend with FDWP credit</i>		
	An FDWP credit attached to a dividend derived when not an FDWP company	day the dividend is paid	section MB 10
9	<i>Payment of FDWP</i>		
	FDWP paid when not an FDWP company	day of payment	section MB 11
10	<i>Transfer from FDWP account</i>		
	A transfer from an FDWP account	day of transfer	section MB 12
11	<i>Debit balance on leaving wholly-owned group</i>		
	A transfer for a debit balance when a company leaves a wholly-owned group	day the company leaves the group	section MB 13
12	<i>Payment of tax on leaving wholly-owned group</i>		
	Additional income tax payable when a company leaves a wholly-owned group	day of payment	section MB 14
13	<i>Payment of tax on joining wholly-owned group</i>		
	Additional income tax when a company joins a wholly-owned group	day of payment	section MB 15
14	<i>Attribution for personal services</i>		
	An attribution for personal services if a company is not a qualifying company	31 March	section MB 16

15	<i>Transfer from policyholder credit account</i>		
	A transfer from a policyholder credit account	day of transfer	section MB 17
16	<i>Transfer from ASC account</i>		
	A transfer from an ASC account	day of transfer	section MB 18
17	<i>Transfer to master fund</i>		
	A transfer to a master fund by a company	day of transfer	section MB 19
18	<i>Distribution with Maori authority credit</i>		
	A Maori authority credit attached to a distribution received	day of distribution	section MB 20
19	<i>Balance of Maori authority credit account</i>		
	A transfer of balance of Maori authority credit account	day of transfer	section MB 21
20	<i>Credit on qualifying amalgamation</i>		
	An imputation credit, FDWP credit, or policyholder credit on a qualifying amalgamation	credit date in account of the amalgamating company	section MB 22
21	<i>Reversal of tax advantage arrangement</i>		
	The reversal of a debit for a tax advantage arrangement	debit date of the debit	section MB 23
22	<i>Elimination of double debit</i>		
	Eliminating a debit for loss of shareholder continuity cancelling a tax pooling account deposit that is refunded or credited	day of refund or credit	section MB 24
23	<i>Deduction of non-resident withholding tax</i>		
	Non-resident withholding tax deducted by an Australian ICA company	day of deduction	section MB 25
24	<i>Deduction from withholding payment</i>		
	A tax deduction from a withholding payment paid to an Australian ICA company	day of deduction	section MB 26
25	<i>Payment of schedular income tax</i>		
	Schedular income tax paid by an Australian ICA company	day of payment	section MB 27

**How to use this table**

Each row of the table describes—

- (a) the imputation credits that may arise in the imputation credit account of an ICA company during a tax year; and
- (b) the credit date when the credit arises.

A more detailed description of the imputation credits is contained in the section noted in the last column.



#### **MB 4 ICA payment of tax**

##### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 2 (payment of tax) for an amount of income tax or provisional tax paid. Subsection (2) overrides this subsection.

##### ***No credit***

- (2) An ICA company does not have an imputation credit for an amount of—
- (a) income tax paid as a trustee, unless paid on category A income as described in paragraph (c) of the definition of **company** in section OB 1 (Definitions); or
  - (b) a transfer from a tax pooling account to a tax account with the Commissioner; or
  - (c) income tax paid on income derived when the company is not an ICA company; or
  - (d) income tax paid by a credit of tax under subpart LE (Non-resident investors); or
  - (e) further income tax applied under section MB 62 to pay income tax or provisional tax; or
  - (f) income tax paid under section LB 2(2) (Credit of tax for imputation credit) by crediting an imputation credit; or
  - (g) income tax paid under section LD 8(1) (Credit of tax for dividend withholding payment credit in hands of shareholder) by crediting an FDWP credit; or
  - (h) income tax paid under section ME 7 (BETA payment of income tax) by a credit to the company's branch equivalent tax account; or
  - (i) income tax paid by a life insurer subject to section EY 47 (Non-resident life insurers with life insurance policies in New Zealand) to satisfy its policyholder base income tax liability.

##### ***Credit date***

- (3) The credit date is the day the tax is paid.

Defined in this Act: amount, branch equivalent tax account, category A income, Commissioner, company, FDWP credit, further income tax, ICA company, imputation credit, imputation credit account, income, income tax, life insurer, pay, policyholder base income tax liability, provisional tax, tax year, trustee

Origin: 2004 No 35 s ME 4(1)(a), (2)(a)

### **MB 5 ICA deposit in tax pooling account**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 3 (deposit in tax pooling account) for an amount provided by it and paid by an intermediary into a tax pooling account.

#### ***Credit date***

- (2) The credit date is the day the amount is deposited.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, intermediary, pay

Origin: 2004 No 35 s ME 4(1)(ac), (2)(ac)

### **MB 6 ICA transfer from tax pooling account**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 4 (transfer from tax pooling account) for an amount that represents an entitlement to funds held in a tax pooling account and transferred by an intermediary.

#### ***Credit date***

- (2) The credit date is—
  - (a) the effective date under section MBA 6 (Transfers from tax pooling account) of the Income Tax Act 2004 if the amount is transferred to the company's tax account with the Commissioner; or
  - (b) the day the refund is made.

Defined in this Act: amount, Commissioner, ICA company, imputation credit, intermediary

Origin: 2004 No 35 s ME 4(1)(ad), (2)(ad)

### **MB 7 ICA payment of further income tax**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 5 (payment of further income tax) for an amount of further income tax paid under section MB 58 or MB 59.

#### ***Credit date***

- (2) The debit date is the day the further income tax is paid.

Defined in this Act: amount, further income tax, ICA company, imputation credit, pay

Origin: 2004 No 35 s ME 4(1)(c), (2)(a)

### **MB 8 ICA deduction of resident withholding tax**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 6 (deduction of resident withholding tax) for the amount of a deduction of resident withholding tax that is treated under section NF 12(b) (Amount of resident withholding tax deduction deemed to have been received) as derived by the company.

#### ***Credit date***

- (2) The credit date is the day the resident withholding tax is deducted from resident withholding income.

Defined in this Act: amount, deduction, ICA company, imputation credit, resident withholding income, resident withholding tax

Origin: 2004 No 35 s ME 4(1)(i), (2)(g)

### **MB 9 ICA derivation of dividend with imputation credit**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 7 (derivation of dividend with imputation credit) for the amount of an imputation credit attached to a dividend derived by the company.

#### ***Credit date***

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, dividend, ICA company, imputation credit, pay

Origin: 2004 No 35 s ME 4(1)(d), (2)(c)

### **MB 10 ICA derivation of dividend with FDWP credit**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 8 (derivation of dividend with FDWP credit) for the amount of an FDWP credit attached to a dividend derived by the company when it is not an FDWP company.

***Credit date***

- (2) The credit date is the day the dividend is paid.

Defined in this Act: amount, dividend, FDWP company, FDWP credit, ICA company, imputation credit, pay

Origin: 2004 No 35 s ME 4(1)(e), (2)(c)

**MB 11 ICA payment of FDWP**

***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 9 (payment of FDWP) for an amount of FDWP paid when the company is not an FDWP company. Subsection (2) overrides this subsection.

***No credit***

- (2) No credit arises for a liability for FDWP that is satisfied under section NH 3(2) or (3) (Payment and recovery of dividend withholding payment) by the reduction of a net loss.

***Credit date***

- (3) The credit date is the day the FDWP is paid.

Defined in this Act: amount, FDWP, FDWP company, ICA company, imputation credit, net loss, pay

Origin: 2004 No 35 s ME 4(1)(f), (2)(d)

**MB 12 ICA transfer from FDWP account**

***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 10 (transfer from FDWP account) for an amount equal to the amount of an FDWP debit described in table M4: FDWP debits, row 6 (transfer to imputation credit account) transferred from its FDWP account.

***Credit date***

- (2) The credit date is the day the amount is transferred.

Defined in this Act: amount, FDWP account, ICA company, imputation credit

Origin: 2004 No 35 s ME 4(1)(g), (2)(e)

### **MB 13 ICA debit balance on leaving wholly-owned group**

#### ***Election***

- (1) If the requirements set out in subsections (2) and (4) are met, an ICA company may choose to transfer a debit balance in its imputation credit account when the company stops being part of a wholly-owned group of companies.

#### ***Eligibility***

- (2) The company may make an election under subsection (1) if all of the following apply at a particular time:
  - (a) the company is or has recently been part of a wholly-owned group of companies; and
  - (b) the company is no longer part of the group, or will shortly no longer be part of the group; and
  - (c) the company has a debit balance in its imputation credit account; and
  - (d) the group has available net losses of more than \$1,000,000 for the income year before the particular time.

#### ***Credit and debit***

- (3) The company may choose that an amount of no more than the debit balance is—
  - (a) an imputation credit described in table M1: imputation credits, row 11 (debit balance on leaving wholly-owned group) in its imputation credit account; and
  - (b) an imputation debit described in table M2: imputation debits, row 17 (debit balance on leaving wholly-owned group), and referred to in section MB 44, in the imputation credit account of another company in the group after the date on which the company stops being part of the group.

#### ***Form and timing of election***

- (4) The company must make the election—
  - (a) in a form that the Commissioner may require; and
  - (b) with a notice of agreement from the group company in whose account the imputation debit arises under subsection (3)(b); and
  - (c) before the company stops being part of the group.

#### ***Further time***

- (5) For the purposes of subsection (4)(b), the Commissioner may allow further time in which to provide the notice if the company did not have sufficient information at the time it stops being part of the group.

#### ***Credit date***

- (6) The credit date is the day the company leaves the wholly-owned group.

Defined in this Act: available net loss, Commissioner, company, ICA company, imputation credit, imputation credit account, imputation debit, income year, notice, wholly-owned group

Origin: 2004 No 35 ss ME 4(1)(cb), (2)(bb), ME 9B(1), (2)

#### **MB 14 ICA payment of tax on leaving wholly-owned group**

##### *Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 12 (payment of tax on leaving wholly-owned group) for an amount of additional income tax for which it is liable under section MB 64.

##### *Credit date*

- (2) The credit date is the day the additional income tax is paid to the Commissioner.

Defined in this Act: additional income tax, amount, Commissioner, ICA company, imputation credit, pay, wholly-owned group

Origin: 2004 No 35 s ME 4(1)(cc), (2)(bc)

#### **MB 15 ICA payment of tax on joining wholly-owned group**

##### *Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 13 (payment of tax on joining wholly-owned group) for an amount of additional income tax for which it is liable under section MB 65.

##### *Credit date*

- (2) The credit date is the day the additional income tax is paid to the Commissioner.

Defined in this Act: additional income tax, amount, Commissioner, ICA company, imputation credit, pay, wholly-owned group

Origin: 2004 No 35 s ME 4(1)(cd), (2)(bd)

#### **MB 16 ICA attribution for personal services**

##### *Credit*

- (1) An ICA company that is not a qualifying company has an imputation credit as described in table M1: imputation credits, row 14 (attribution for personal services) for an amount equal to 49.25% of the personal services attribution under section GC 14D (Attribution rule: calculation).

*Credit date*

- (2) The credit date is the last day of the tax year for which the attribution is made.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, qualifying company, tax year

Origin: 2004 No 35 s ME 4(1)(ab), (2)(ab)

**MB 17 ICA transfer from policyholder credit account**

*Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 15 (transfer from policyholder credit account) for an amount equal to the amount of a debit described in table M14: policyholder debits, row 3 (transfer to imputation credit account) for a transfer of a credit balance from its policyholder credit account.

*Credit date*

- (2) The credit date is the day the amount is transferred.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, policyholder credit account

Origin: 2004 No 35 s ME 4(1)(j), (2)(h)

**MB 18 ICA transfer from ASC account**

*Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 16 (transfer from ASC account) for the transfer of an amount from its ASC account. The amount is calculated using the formula—

$$\text{credit balance} \quad \times \quad \text{maximum imputation ratio.}$$

*Definition of items in formula*

- (2) In the formula,—
- (a) **credit balance** is the amount of the credit balance used by the company under section MA 7 (Opening balances of memorandum accounts) to satisfy a debit balance in an imputation credit account:
- (b) **maximum imputation ratio** is the result of the formula set out in section MB 55(5) but modified as if, in the item **tax rate**, the words “to which the election made under section MF 6 (ASCA transfer to imputation credit account) relates” were read for “in which the dividend is paid”.

*Credit date*

- (3) The credit date is the day the amount is transferred.

Defined in this Act: amount, ASC account, dividend, ICA company, imputation credit, imputation credit account, imputation ratio

Origin: 2004 No 35 s ME 4(1)(da), (2)(ca)

**MB 19 ICA transfer to master fund**

*Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 17 (transfer to master fund) for the transfer of an amount to a master fund. The amount is calculated using the formula—

expenditure transferred x tax rate.

*Definition of items in formula*

- (2) In the formula,—
- (a) **expenditure transferred** is the amount of expenditure transferred under sections DV 5 to DV 7 (which relate to the expenditure of investment funds) to the company as a master fund:
- (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax).

*Credit date*

- (3) The credit date is the day the amount is transferred.

Defined in this Act: amount, basic rate, ICA company, imputation credit, imputation credit account, income tax, master fund

Origin: 2004 No 35 s ME 4(1)(aab), (2)(aab)

**MB 20 ICA distribution with Maori authority credit**

*Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 18 (distribution with Maori authority credit) for the amount of a Maori authority credit attached to a distribution received by the company.

*Credit date*

- (2) The credit date is the day the distribution is paid.



Defined in this Act: amount, ICA company, imputation credit, imputation credit account, Maori authority credit

Origin: 2004 No 35 s ME 4(1)(ea), (2)(cb)

## **MB 21 ICA balance of Maori authority credit account**

### *Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 19 (balance of Maori authority credit account) for an amount equal to the amount of a Maori authority debit described in table M18: Maori authority debits, row 10 (final balance) when the Maori authority stops being a Maori authority.

### *Credit date*

- (2) The credit date is the same as the debit date recorded for the debit under section MK 18 (MACA final balance).

Defined in this Act: amount, ICA company, imputation credit, Maori authority, Maori authority credit account

Origin: 2004 No 35 s ME 4(1)(k), (2)(j)

## **MB 22 ICA credit on qualifying amalgamation**

### *Credit*

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 20 (credit on qualifying amalgamation) for the amount of a credit that arises on or after a qualifying amalgamation in the imputation credit account of the amalgamated company under 1 of the sections listed in subsection (2).

### *Sections*

- (2) The sections are—
  - (a) section MA 10 (Memorandum accounts on qualifying amalgamation) for imputation credits in the imputation credit account of an amalgamating company;
  - (b) section MA 14 (Continuity of shareholding when group companies amalgamate) for imputation credits in the imputation credit account of a consolidated imputation group that ceases to exist on the amalgamation;
  - (c) section MA 11 (FDWP account on qualifying amalgamation) for an FDWP credit in the FDWP account of an amalgamating company because the amalgamated company does not maintain an FDWP account:

- (d) section MA 16 (When FDWP account ends on qualifying amalgamation) for an FDWP credit in the FDWP account of a consolidated group because the amalgamated company does not maintain an FDWP account:
- (e) section MA 12 (Conduit tax relief account on qualifying amalgamation) for the conduit tax relief credits in the conduit tax relief account of an amalgamating company because the amalgamated company does not maintain a conduit tax relief account:
- (f) section MA 13 (Policyholder credit account on qualifying amalgamation) for a policyholder credit in the policyholder credit account of an amalgamating company because the amalgamated company does not maintain a policyholder credit account:
- (g) section MA 17 (When policyholder credit account ends on qualifying amalgamation) for the policyholder credits in the policyholder credit account of a consolidated group because the company does not maintain a policyholder credit account.

Defined in this Act: amalgamated company, amalgamating company, amount, conduit tax relief account, conduit tax relief credit, consolidated group, consolidated imputation group, FDWP account, FDWP credit, ICA company, imputation credit, imputation credit account, policyholder credit, policyholder credit account, qualifying amalgamation

Origin: 2004 No 35 ss ME 29, MG 17, MI 13

### **MB 23 ICA reversal of tax advantage arrangement**

#### ***Credit***

- (1) An ICA company has an imputation credit as described in table M1: imputation credits, row 21 (reversal of tax advantage arrangement) for an amount equal to the amount of a debit in the company's imputation credit account described in table M2: imputation debits, row 24 (tax advantage arrangement).

#### ***Credit date***

- (2) The credit date is the same as the debit date of the debit under section MB 49.

Defined in this Act: amount, arrangement, ICA company, imputation credit, imputation credit account, imputation debit, tax advantage

Origin: 2004 No 35 s ME 4(1)(h), (2)(f)

## **MB 24 ICA elimination of double debit**

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

- (1) This section applies when an imputation debit in an ICA company's imputation credit account described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) has the effect of cancelling an imputation credit described in table M1: imputation credits, row 3 (deposit in tax pooling account).

### ***Credit***

- (2) The company has an imputation credit as described in table M1: imputation credits, row 22 (elimination of double debit) for an amount equal to the amount of the debit referred to in subsection (1), and either—
  - (a) another debit described in table M2: imputation debits, row 6 (refund from tax pooling account) arises for a refund of the amount of the deposit on a debit date after the debit date for the debit for loss of shareholder continuity; or
  - (b) the deposit is taken into account under section MBA 6 (Transfers from tax pooling account) of the Income Tax Act 2004 in determining the balance of the company's tax account with the Commissioner after the debit date for the debit for loss of shareholder continuity.

### ***Credit date***

- (3) The credit date is the day—
  - (a) the deposit is refunded; or
  - (b) the credit arises in the company's tax account with the Commissioner.

Defined in this Act: amount, Commissioner, ICA company, imputation credit, imputation credit account, imputation debit, shareholder

Origin: 2004 No 35 s ME 4(1A), (2A)

## **MB 25 ICA deduction of non-resident withholding tax**

### ***Credit***

- (1) An Australian ICA company has an imputation credit as described in table M1: imputation credits, row 23 (deduction of non-resident withholding tax) for the amount of a payment of non-resident withholding tax on non-resident withholding income derived by the company.

### ***Credit date***

- (2) The credit date is the day the non-resident withholding income is paid.

Defined in this Act: amount, Australian ICA company, imputation credit, imputation credit account, non-resident withholding income, non-resident withholding tax, pay

Origin: 2004 No 35 s ME 4(1B)(a), (2B)(a)

### **MB 26 ICA deduction from withholding payment**

#### *Credit*

- (1) An Australian ICA company has an imputation credit as described in table M1: imputation credits, row 24 (deduction from withholding payment) for the amount of a tax deduction from a withholding payment paid to the company as a non-resident contractor.

#### *Credit date*

- (2) The credit date is the day the withholding payment is paid.

Defined in this Act: amount, Australian ICA company, imputation credit, non-resident, pay, tax deduction, withholding payment

Origin: 2004 No 35 s ME 4(1B)(b), (2B)(b)

### **MB 27 ICA payment of schedular income tax**

#### *Credit*

- (1) An Australian ICA company has an imputation credit as described in table M1: imputation credits, row 25 (payment of schedular income tax) for a payment by the company of schedular income tax for income derived under section FC 13, FC 14, FC 18, or FC 21 (which relate to non-resident insurers, shippers, and film renters).

#### *Credit date*

- (2) The credit date is the day the schedular income tax is paid.

Defined in this Act: Australian ICA company, company, imputation credit, income, pay, schedular income

Origin: 2004 No 35 s ME 4(1B)(c), (2B)(c)

## *Imputation debits*

**Table M2: imputation debits**

Row	Imputation debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of dividend</i>		
	An imputation credit attached to dividend paid	day of payment	section MB 28
3	<i>Allocation of provisional tax</i>		
	An allocation of provisional tax	day of notice of allocation	section MB 29
4	<i>Refund of income tax</i>		
	A refund of income tax	day of refund	section MB 30
5	<i>Amount applied to pay other taxes</i>		
	Overpaid income tax applied to meet another tax liability	day of application	section MB 31
6	<i>Refund from tax pooling account</i>		
	A refund from a tax pooling account	day of refund	section MB 32
7	<i>Transfer within tax pooling account</i>		
	A transfer of entitlement to another person in a tax pooling account	set out in section MB 33	section MB 33
8	<i>Refund of FDWP</i>		
	A refund of FDWP when not an FDWP company	day of refund	section MB 34
9	<i>Refund of tax credit</i>		
	A refund of a tax credit	day of refund	section MB 35
10	<i>Overpayment of FDWP</i>		
	Overpaid FDWP applied to satisfy a liability when not an FDWP company	day of application	section MB 36
11	<i>Overpayment of income tax or FDWP</i>		
	Overpaid income tax or FDWP applied to satisfy pre-imputation income tax when not an FDWP company	day of application	section MZ 3

Part M—Memorandum accounts  
Subpart MB—Imputation credit accounts  
53

12	<i>Transfer for net foreign attributed income</i>		
	A transfer to an FDWP account on account of net foreign income for an income year	31 March or when tax return filed	section MB 37
13	<i>Attribution for personal services</i>		
	A attribution for personal services	31 March	section MB 38
14	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity	day of loss of continuity	section MB 39
15	<i>On-market cancellation</i>		
	A debit for on-market cancellation	day of acquisition	section MB 40
16	<i>Breach of imputation ratio</i>		
	A debit for breach of imputation ratio	31 March	section MB 41
17	<i>Debit balance on leaving wholly-owned group</i>		
	A transfer for a debit balance when another company leaves a wholly-owned group	day the company leaves the group	section MB 42
18	<i>Redemption debit</i>		
	A redemption debit for a unit trust or group investment fund for an income year	day the return of income for the income year is filed	section MB 43
19	<i>Transfer from member fund</i>		
	A transfer from a member fund to a master fund	31 March	section MB 44
20	<i>Transfer to policyholder credit account</i>		
	A transfer to a company's policyholder credit account	set out in section MB 45	section MB 45
21	<i>Credit balance when Maori authority credit account starts</i>		
	A credit balance when a Maori authority credit account starts	day of becoming a Maori authority	section MB 46
22	<i>Credit of consolidated imputation group</i>		
	A credit that is also a credit to the imputation credit account of a consolidated imputation group	credit date for the imputation credit	section MB 47
23	<i>Debit on qualifying amalgamation</i>		
	An imputation debit, FDWP debit, or policyholder debit in the account of an amalgamating company	debit date in the account of the amalgamating company	section MB 48
24	<i>Tax advantage arrangement</i>		
	A debit for tax advantage arrangement	last day of the tax year in which the arrangement began	section MB 49
25	<i>Retrospective imputation credit</i>		
	The retrospective attachment of imputation credit to a non-cash dividend	day of payment of the dividends	section MB 50
26	<i>Final balance</i>		
	A final balance when ICA company status ceases	day of cessation	section MB 51

27	<i>Refund of non-resident withholding tax</i>		
	A refund of non-resident withholding tax to an Australian ICA company	day of refund	section MB 52
28	<i>Refund of withholding payment</i>		
	A refund of withholding payment to an Australian ICA company	day of refund	section MB 53
29	<i>Refund of schedular income tax</i>		
	A refund of schedular income tax to an Australian ICA company	day of refund	section MB 54
<p><b>How to use this table</b></p> <p>Each row of the table describes—</p> <p>(a) the imputation debits that may arise in the imputation credit account of an ICA company during a tax year; and</p> <p>(b) the debit date on which the debits arise.</p> <p>A more detailed description of the imputation debits and, as necessary, debit dates is contained in the section noted in the last column.</p>			

### **MB 28 ICA payment of dividend**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 2 (payment of dividend) for the amount of an imputation credit attached to a dividend paid by the company.

#### ***Debit date***

- (2) The debit date is the day the dividend is paid.

Defined in this Act: amount, dividend, ICA company, imputation credit, imputation debit, pay

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

### **MB 29 ICA allocation of provisional tax**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 3 (allocation of provisional tax) for an amount of provisional tax allocated by the company under section MB 9 (Payments to be set of within wholly-owned group) of the Income Tax Act 2004 to an underpaid company.

***Debit date***

- (2) The debit date is the day the Commissioner is notified of the allocation.

Defined in this Act: amount, Commissioner, company, ICA company, imputation debit, notify, provisional tax

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

**MB 30 ICA refund of income tax**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 4 (refund of income tax) for the amount of a refund of income tax paid to the company. Subsection (2) overrides this subsection.

***No debit***

- (2) A debit under subsection (1) does not include—
- (a) income tax paid for a period when the company was not an ICA company; or
  - (b) income tax paid before a debit described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) arises but only to the extent to which the amount of the refund is less than the amount of the debit; or
  - (c) a refund under subpart LE (Non-resident investors) because the supplementary dividend generating the refund was paid before a debit described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) arises but only to the extent to which the amount of the refund is less than the amount of the debit.

***Part-year ICA company***

- (3) The amount of the debit that arises if the company is an ICA company for only part of a tax year is an amount calculated using the formula—

$$\left( \frac{\text{ICA days}}{365} \right) \times \text{refund.}$$

***Definition of items in formula***

- (4) In the formula,—
- (a) **ICA days** is the number of days in which the company is an ICA company;
  - (b) **refund** is the amount of the refund.

***Debit date***

- (5) The debit date is the day the refund is made.



Defined in this Act: amount, company, ICA company, imputation debit, income tax, pay, shareholder, supplementary dividend, tax year

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

### **MB 31 ICA amount applied to pay other taxes**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 5 (amount applied to pay other taxes) for an amount of overpaid income tax applied to satisfy an amount owing under the Inland Revenue Acts. Subsection (2) overrides this subsection.

#### ***No debit***

- (2) A debit under subsection (1) does not include an amount of overpaid income tax—
  - (a) applied to satisfy a liability for income tax or provisional tax; or
  - (b) relating to income tax paid before an imputation debit described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) arises to the extent to which the amount of overpaid income tax is not more than the amount of the debit for loss of shareholder continuity.

#### ***Debit date***

- (3) The debit date is the day the amount is applied.

Defined in this Act: amount, ICA company, imputation debit, income tax, Inland Revenue Acts, pay, provisional tax, shareholder

Origin: 2004 No 35 s ME 5(1)(l), (2)(k)

### **MB 32 ICA refund from tax pooling account**

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

- (1) This section applies when an ICA company pays an intermediary an amount that gives rise to an imputation credit described in table M1: imputation credits, row 3 (deposit in tax pooling account) or row 4 (transfer from tax pooling account), and the amount is later refunded by the intermediary from the tax pooling account.

#### ***Debit***

- (2) The company has an imputation debit as described in table M2: imputation debits, row 6 (refund from tax pooling account) for the amount of the refund.

#### ***Debit date***

- (3) The debit date is the day the refund is made.

Defined in this Act: amount, ICA company, imputation credit, imputation debit, intermediary, pay

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

### **MB 33 ICA transfer within tax pooling account**

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

- (1) This section applies when an ICA company pays an intermediary an amount that gives rise to an imputation credit described in table M1: imputation credits, row 3 (deposit in tax pooling account) or row 4 (transfer from tax pooling account), and the entitlement to the amount is later transferred to another person in the tax pooling account.

#### ***Debit***

- (2) The company has an imputation debit for a tax year as described in table M2: imputation debits, row 7 (transfer within tax pooling account) for the amount of the transfer of the entitlement to funds in the tax pooling account.

#### ***Debit date for companies other than qualifying companies***

- (3) The debit date for a company that is not a qualifying company is—
  - (a) the last day of the previous tax year to the extent of the amount of the debit that is not more than the credit balance in the account on that date; or
  - (b) the day the refund is made to the extent of the remaining amount of the debit that is not more than the credit balance in the imputation credit account on the day of refund; or
  - (c) the last day of the previous tax year for the remainder of the debit.

#### ***Debit date for qualifying companies***

- (4) The debit date for a qualifying company is the day the refund is made.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, imputation debit, intermediary, pay, qualifying company, tax year

Origin: 2004 No 35 s ME 5(1)(eb), (2)(ea)

### **MB 34 ICA refund of FDWP**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 8 (refund of FDWP) for the amount of a refund of FDWP paid to the company when it is not an FDWP company.

***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, FDWP, FDWP company, ICA company, imputation debit, pay

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

**MB 35 ICA refund of tax credit**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 9 (refund of tax credit) for the amount of a refund under section LD 8(1)(a) (Credit of tax for dividend withholding payment credit in hands of shareholder) paid to the company when it is not an FDWP company.

***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, FDWP company ICA company, imputation debit, pay

Origin: 2004 No 35 s ME 5(1)(h), (2)(e)

**MB 36 ICA overpayment of FDWP**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 10 (overpayment of FDWP) for an amount of overpaid FDWP applied to satisfy an amount owing under the Inland Revenue Acts. Subsection (2) overrides this subsection.

***No debit***

- (2) The debit does not include an overpayment of FDWP applied to satisfy a liability for income tax, provisional tax, or FDWP.

***Debit date***

- (3) The debit date is the day the amount is applied.

Defined in this Act: amount, ICA company, FDWP, imputation debit, income tax, Inland Revenue Acts, pay, provisional tax

Origin: 2004 No 35 s ME 5(1)(m), (2)(k)

### **MB 37 ICA transfer for net foreign attributed income**

#### ***Election***

- (1) An ICA company that is also an FDWP company may, for a tax year, choose to transfer an amount relating to net foreign attributed income from the its imputation credit account to its FDWP account. The ICA company has an imputation debit for the amount transferred as set out in subsection (2).

#### ***Debit and credit***

- (2) The amount transferred is—
  - (a) an imputation debit described in table M2: imputation debits, row 12 (transfer for net foreign attributed income) in the company's imputation credit account; and
  - (b) an FDWP credit described in table M3: FDWP credits, row 6 (transfer for net foreign attributed income) in the company's FDWP account.

#### ***Methods for calculating amount***

- (3) The amount transferred must be calculated under method 1 or method 2 as described in this section.

#### ***Two methods***

- (4) The company must apply—
  - (a) method 1 set out in subsection (5) if it is an FDWP company and a conduit tax relief company for all of the tax year; or
  - (b) method 2 set out in subsection (6) if the company is not also an FDWP company and a conduit tax relief company for all of the tax year.

#### ***Method 1***

- (5) Under method 1, the company must apply sections KH 1 and KH 2 (which relate to credits for conduit tax relief) as if—
  - (a) the amount transferred were conduit tax relief for the tax year; and
  - (b) the percentage of resident shareholders were substituted for the item **NRS** in section KH 1(2) and (3); and
  - (c) the percentage of resident shareholders were calculated by deducting the item **NRS** from 100%.

#### ***Method 2***

- (6) Under method 2, the company must make the calculation under section KH 1 as if the company were a conduit tax relief company and the item **NRS** were 100%.

#### ***No transfer***

- (7) Despite subsection (3), if neither method can be applied, no transfer arises under this section.

***Debit dates***

- (8) The debit date is—
- (a) the last day of the tax year for the amount of the debit that is no more than the amount of provisional tax paid before that date for the income year that corresponds with the tax year; and
  - (b) the day the company files its return of income for the income year for the balance of the debit.

Defined in this Act: amount, conduit tax relief company, FDWP account, FDWP company, foreign attributed income, ICA company, imputation credit account, imputation debit, income year, provisional tax, resident in New Zealand, return of income, shareholder, tax year

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

**MB 38 ICA attribution for personal services**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 13 (attribution for personal services) for an amount equal to the amount of an imputation credit described in table M1: imputation credits, row 14 (attribution for personal services).

***Accounts adjusted***

- (2) A debit under subsection (1) is recorded in the imputation credit account only if the company has accounted for an attribution of income under section GC 14D (Attribution rule: calculation).

***Debit date***

- (3) The debit date is the last day of the tax year that falls in the income year for which the company accounts in its financial statements for the attribution of income referred to in subsection (2).

Defined in this Act: amount, financial statements, ICA company, imputation credit, imputation credit account, imputation debit, income, income year, tax year

Origin: 2004 No 35 s ME 5(1)(ia), (2)(ha)

**MB 39 ICA debit for loss of shareholder continuity**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity) for the amount equal to the

amount of an imputation credit retained in the imputation credit account and unused before the date of breach in shareholder continuity.

***Debit date***

- (2) The debit date is the day of loss of shareholder continuity.

Defined in this Act: amount, ICA company, imputation credit, imputation credit account, imputation debit, shareholder

Origin: 2004 No 35 s ME 5(1)(i), (2)(h)

**MB 40 ICA on-market cancellation**

***Debit***

- (1) When an ICA company acquires its shares in an on-market cancellation, it has an imputation debit as described in table M2: imputation debits, row 15 (on-market cancellation) for an amount calculated using the—

$$\text{ASC per share excess} \quad \times \quad \frac{\text{RWT rate}}{1 - \text{RWT rate.}}$$

***Definitions of items in formula***

- (2) In the formula,—
- (a) **ASC per share excess** is the amount distributed on the on-market cancellation that is more than the amount of the available subscribed capital per share calculated under the ordering rule:
- (b) **RWT rate** is the decimal fraction that is the rate of resident withholding tax set out in schedule 14, clause 2 (Rate of resident withholding tax deductions) at the time of the acquisition.

***Negative result***

- (3) If the formula produces a negative result, the debit is treated as zero.

***Debit date***

- (4) The debit date is the day the shares are acquired by the company in the on-market cancellation.

Defined in this Act: amount, available subscribed capital, ICA company, imputation debit, on-market cancellation, ordering rule, resident withholding tax, share, withholding tax

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

### **MB 41 ICA breach of imputation ratio**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 16 (breach of imputation ratio) for a breach of the benchmark dividend rules in section MB 56(5) for an amount calculated using the formula—
- $$(\text{net dividends} \times \text{imputation ratio}) - \text{attached credits}.$$

#### ***Definition of items in formula***

- (2) In the formula,—
- (a) **net dividends** is the total amount of all dividends paid by the company during the tax year, excluding the amount of imputation credits and FDWP credits attached to the dividends:
- (b) **imputation ratio** is the maximum imputation ratio or, if less, the greatest imputation ratio of dividends paid by the company for the tax year:
- (c) **attached credits** is the amount of all imputation credits attached to dividends paid by the company for the tax year.

#### ***Ratio change declaration***

- (3) A debit under subsection (1) does not arise if the company provides a ratio change declaration under section MB 56(6).

#### ***Debit date***

- (4) The debit date is the last day of the tax year.

Defined in this Act: amount, benchmark dividend, dividend, FDWP credit, ICA company, imputation credit, imputation debit, imputation ratio, tax year

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

### **MB 42 ICA debit on leaving wholly-owned group**

#### ***Debit***

- (1) An ICA company (**company A**) has an imputation debit as described in table M2: imputation debits, row 17 (debit balance on leaving wholly-owned group) for an amount equal to the amount of an imputation debit that another company (**company B**) chooses under section MB 13 as a debit to company A's imputation credit account when company B leaves a wholly-owned group of companies.

#### ***Debit date***

- (2) The debit date is the date when the company B stops being part of the wholly-owned group.

Defined in this Act: amount, company, ICA company, imputation credit account, imputation debit, wholly-owned group

Origin: 2004 No 35 ss ME 5(1)(fb), (2)(fb), ME 9B(2)(a)(i)

### **MB 43 ICA redemption debit**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 18 (redemption debit) for the amount of a redemption debit.

#### ***When redemption debit arises***

- (2) A redemption debit arises when—
- (a) a company that is not an Australian ICA company is—
    - (i) the manager of a unit trust; or
    - (ii) the trustee or manager of a group investment fund; and
  - (b) the company derives a dividend on the redemption or cancellation of—
    - (i) a unit issued by the unit trust; or
    - (ii) an interest of an investor in the group investment fund; and
  - (c) the company has acquired the unit or interest in the ordinary course of its management activities; and
  - (d) the unit or interest had been offered to investors on terms contemplating repurchase and redemption or cancellation by the company.

#### ***Calculating amount***

- (3) The debit is for the greater of the amounts described in subsections (4) and (6) calculated for the income year in which the company derived the dividend referred to in subsection (2)(b).

#### ***First amount***

- (4) The first amount is calculated using the formula—

$$\text{total credits} - \text{imputation debits.}$$

#### ***Definition of items in formula***

- (5) In the formula in subsection (4), —
- (a) **total credits** is the total amount of all imputation credits and FDWP credits attached to dividends derived in the circumstances described in subsection (2) by the company for the income year;
  - (b) **imputation debits** is the amount of all imputation debits arising for the income year described in—
    - (i) table M2: imputation debits, row 14 (debit for loss of shareholder continuity) in the company's imputation credit account; or



- (ii) table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity) in the imputation credit account of the consolidated group of which the company is part.

***Second amount***

- (6) The second amount is calculated using the formula—

$$\frac{\text{total dividends}}{\text{company's taxable income}} \times (\text{company's tax liability} - \text{continuity debits}).$$

***Definition of items in formula***

- (7) In the formula in subsection (6), —

- (a) **total dividends** is the total amount of all dividends derived in the circumstances described in subsection (2), including imputation credits and FDWP credits attached to the dividends:
- (b) **company's taxable income** is the taxable income of the company for the income year in which the dividends are derived:
- (c) **company's tax liability** is the company's income tax liability for the income year:
- (d) **continuity debits** is the imputation credits attached to the dividends that have been cancelled by an imputation debit arising during the income year as described in—
  - (i) table M2: imputation debits, row 14 (debit for loss of shareholder continuity) in the company's imputation credit account; or
  - (ii) table M20: imputation debits of consolidated imputation groups, row 13 (debit for loss of shareholder continuity) in the imputation credit account of the consolidated group of which the company is part.

***Debit date***

- (8) The debit date is the date on which the company or the group's nominated company files the return of income for the income year in which the dividend is derived.

Defined in this Act: amount, Australian ICA company, company, consolidated imputation group, dividend, FDWP credit, group investment fund, ICA company, imputation credit, imputation credit account, imputation debit, income, income tax, income tax liability, income year, investor, nominated company, return of income, shareholder, tax, taxable income, trustee, unit trust

### **MB 44 ICA transfer to member fund**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 19 (transfer from member fund) for an amount calculated using the formula—

$$\text{expenditure transferred} \quad \times \quad \text{tax rate.}$$

#### ***Definition of items in formula***

- (2) In the formula,—
- (a) **expenditure transferred** is the amount of expenditure transferred under sections DV 5 to DV 7 (which relate to expenditure related to investment funds) by the company, as a member fund, to a master fund:
  - (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax).

#### ***Debit date***

- (3) The debit date is last day of the tax year in which the transfer occurs.

Defined in this Act: amount, basic rate, ICA company, imputation debit, master fund

Origin: 2004 No 35 s ME 5(1)(ja), (2)(ia)

### **MB 45 ICA transfer to policyholder credit account**

#### ***Election***

- (1) An ICA company that is also a PCA company may, for a tax year,—
- (a) choose to transfer some or all of a credit balance in the company's imputation credit account to the company's policyholder credit account; or
  - (b) be treated as choosing to transfer an imputation credit to the policyholder credit account.

#### ***Debit and credit***

- (2) A credit balance or credit transferred under this section is—
- (a) an imputation debit described in table M2: imputation debits, row 20 (transfer to policyholder credit account) in the company's imputation credit account; and
  - (b) a policyholder credit as described in table M13: policyholder credits, row 2 (transfer from imputation credit account) in the company's policyholder credit account.

***Method of election***

- (3) The company makes the election by recording the balance transferred as—
- (a) a debit in the company's imputation credit account; and
  - (b) a credit in the company's policyholder credit account.

***Election for some credits***

- (4) The company must make the election no later than the last day of the tax year for an amount of the credit balance that arises in the following circumstances:
- (a) the company has adopted a non-standard accounting year; and
  - (b) during the tax year the company derives a dividend that gives rise to a credit in the company's imputation credit account described in table M1: imputation credits, row 7 (derivation of dividend with imputation credit) or row 8 (derivation of dividend with FDWP credit); and
  - (c) the credit is included in the credit balance because it has not been used, and the company has not breached the shareholder continuity requirement set out in section MA 8 (Shareholder continuity requirements for memorandum accounts).

***Mandatory transfer for company with non-standard accounting year***

- (5) Despite the absence of an election during the tax year, a company that has adopted a non-standard accounting year is treated as having chosen at the end of the tax year to transfer the credit described in subsection (6) from the imputation credit account to the policyholder credit account.

***Credit***

- (6) The company is treated as having made an election for a tax year to the extent to which—
- (a) during the tax year, or no later than the end of the accounting year corresponding with the tax year, a credit arises as described in either of the following rows of table M1: imputation credits:
    - (i) row 2 (payment of tax) for a payment of provisional tax; or
    - (ii) row 9 (payment of FDWP) for a payment of FDWP; and
  - (b) during the tax year, the credit has not been cancelled by a later debit arising as described in either of the following rows of table M2: imputation debits:
    - (i) row 4 (refund of income tax) for a refund of provisional tax paid during the accounting year;
    - (ii) row 8 (refund of FDWP) for a refund of FDWP paid during the accounting year; and
  - (c) the credit has not been included in a credit balance transferred by an election under subsection (3).

***Ordering rule***

- (7) For the purpose of determining under subsection (6)(b) whether a debit has cancelled a credit, debits are treated as cancelling credits in the order in which the credits arise.

***Credit and debit dates***

- (8) The credit dates and debit dates for the credit balance and credit transferred are—
- (a) the day of election for the credit balance transferred under subsection (3); and
  - (b) the last day of the tax year for a credit that the company is treated as having chosen under subsection (4) to transfer.

Defined in this Act: accounting year, dividend, FDWP credit, ICA company, imputation credit account, imputation debit, income tax, non-standard accounting year, pay, PCA company, policyholder credit account, provisional tax, shareholder, tax year

Origin: 2004 No 35 ss ME 5(1)(b), (2)(b), ME 7

**MB 46 ICA credit balance when Maori authority credit account starts**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 21 (credit balance when Maori authority credit account starts) for a credit balance in the company's imputation credit account just before the company becomes a Maori authority.

***Debit date***

- (2) The debit date is the day just before the company becomes a Maori authority.

Defined in this Act: ICA company, imputation credit account, imputation debit, Maori authority, Maori authority credit account

Origin: 2004 No 35 s ME 5(1)(ka), (2)(ja)

**MB 47 ICA imputation credit of consolidated imputation group**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 22 (credit of consolidated imputation group) for the amount of an imputation credit in the company's imputation credit account that is also a credit in the imputation credit account of a consolidated imputation group of which the company is part.

***Debit date***

- (2) The debit date is the day on which the imputation credit is recorded in the imputation account of the consolidated imputation group.

Defined in this Act: amount, ICA company, consolidated imputation group, imputation credit, imputation credit account, imputation debit

Origin: 2004 No 35 s ME 13(3)

**MB 48 ICA debit on qualifying amalgamation**

***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 23 (debit on qualifying amalgamation) for the amount of a debit described in subsection (2) that arises on or after a qualifying amalgamation in the account of the amalgamated company under 1 of the sections listed in subsection (2).

***Sections***

- (2) The sections are—
- (a) section MA 10 (Memorandum accounts on qualifying amalgamation) for imputation debits in the imputation credit account of an amalgamating company:
  - (b) section MA 14 (Continuity of shareholding when group companies amalgamate) for imputation debits in the imputation credit account of a consolidated imputation group that ceases to exist on the amalgamation:
  - (c) section MA 11 (FDWP account on qualifying amalgamation) for FDWP debits in the FDWP account of an amalgamating company because the amalgamated company does not maintain an FDWP account:
  - (d) section MA 16 (When FDWP account ends on qualifying amalgamation) for FDWP debits in the FDWP account of a consolidated group because the amalgamated company does not maintain an FDWP account:
  - (e) section MA 12 (Conduit tax relief account on qualifying amalgamation) for the conduit tax relief debits in the conduit tax relief account of an amalgamating company because the amalgamated company does not maintain a conduit tax relief account:
  - (f) section MA 13 (Policyholder credit account on qualifying amalgamation) for the policyholder debits in the policyholder credit account of an amalgamating company because the amalgamated company does not maintain a policyholder credit account:
  - (g) section MA 17 (When policyholder credit account ends on qualifying amalgamation) for the policyholder debits on the policyholder credit account of a consolidated group because the amalgamated company does not maintain a policyholder credit account.

Defined in this Act: amalgamated company, amalgamating company, consolidated group, consolidated imputation group, conduit tax relief account, credit, FDWP account, ICA company, imputation credit account, imputation debit, policyholder credit account, qualifying amalgamation

Origin: 2004 No 35 ss ME 29, MG 17, MI 13

### **MB 49 ICA tax advantage arrangement**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 24 (tax advantage arrangement) for the amount of a debit for a tax advantage arrangement determined under section GC 22(4) (Imputation: arrangement to obtain tax advantage).

#### ***Debit date***

- (2) The debit date is the last day of the tax year in which the debit for the tax advantage arrangement is determined.

Defined in this Act: amount, arrangement, ICA company, imputation debit, tax advantage, tax year

Origin: 2004 No 35 s ME 5(1)(j), (2)(h)

### **MB 50 ICA retrospective imputation credit**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 25 (retrospective imputation credit) for an imputation credit that is retrospectively attached to a non-cash dividend under section MB 57.

#### ***Debit date***

- (2) The debit date is the day the dividend is paid.

Defined in this Act: ICA company, imputation credit, imputation debit, non-cash dividend, pay

Origin: 2004 No 35 s ME 6(4)(a)

### **MB 51 ICA final balance**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 26 (final balance) for a credit balance in the imputation credit account when the company stops being an ICA company.

#### ***Debit date***

- (2) The debit date is the day the company stops being an ICA company.

Defined in this Act: ICA company, imputation credit account, imputation debit

Origin: 2004 No 35 s ME 5(1)(k), (2)(j)

### **MB 52 ICA refund of non-resident withholding tax**

#### ***Debit***

- (1) An Australian ICA company has an imputation debit as described in table M2: imputation debits, row 27 (refund of non-resident withholding tax) for the amount of a refund of non-resident withholding tax that gives rise to an imputation credit described in table M1: imputation credits, row 23 (deduction of non-resident withholding tax).

#### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, imputation credit, imputation debit, non-resident withholding tax

Origin: 2004 No 35 s ME 5(1A)(a), (2A)

### **MB 53 ICA refund of withholding payment**

#### ***Debit***

- (1) An Australian ICA company has an imputation debit as described in table M2: imputation debits, row 28 (refund of withholding payment) for the amount of a refund of withholding payment that gives rise to an imputation credit described in table M1: imputation credits, row 24 (deduction from withholding payment).

#### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, imputation credit, imputation debit, pay, withholding payment

Origin: 2004 No 35 s ME 5(1A)(b), (2A)

### **MB 54 ICA refund of schedular income tax**

#### ***Debit***

- (1) An Australian ICA company has an imputation debit as described in table M2: imputation debits, row 29 (refund of schedular income tax) for the amount of a refund of a payment of schedular income tax that gives rise to an imputation credit described in table M1: imputation credits, row 25 (payment of schedular income tax).

#### ***Debit date***

- (2) The debit date is the day the refund is made.

Defined in this Act: amount, Australian ICA company, imputation credit, imputation debit, pay, schedular income tax, withholding payment

Origin: 2004 No 35 s ME 5(1A)(c), (2A)

### ***Imputation credits attached to dividends***

### **MB 55 Imputation credits attached to dividends**

#### ***Attaching imputation credits***

- (1) When an ICA company pays a dividend, it may attach an imputation credit to the dividend.

#### ***Retrospective attachment***

- (2) The company may determine that an imputation credit is retrospectively attached to a dividend in the circumstances described in section MB 57.

#### ***Imputation ratio for dividend***

- (3) A dividend with an imputation credit attached has an imputation ratio calculated using the formula—

$$\frac{\text{company's imputation credit}}{\text{net dividend paid.}}$$

#### ***Definition of items in formula***

- (4) In the formula in subsection (3),—
  - (a) **company's imputation credit** is the amount of the imputation credit that the company attaches to the dividend:



- (b) **net dividend paid** is the amount of the dividend paid, excluding the amount of the imputation credit and FDWP credit attached.

***Maximum permitted ratio***

- (5) A dividend with an imputation credit attached must not have an imputation ratio that is more than the maximum imputation ratio calculated using the formula—

$$\frac{\text{tax rate}}{1 - \text{tax rate.}}$$

***Definition of item in formula***

- (6) In the formula in subsection (5), **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year that corresponds with the tax year in which the dividend is paid.

***Conversion of AUD dividend***

- (7) A dividend paid in Australian currency by an Australian ICA company must be converted into New Zealand currency, calculated using the formula—

$$\text{Australian dollar value} \quad \times \quad \text{exchange rate.}$$

***Definition of items in formula***

- (8) In the formula in subsection (7),—
- (a) **Australian dollar value** is the amount of the dividend in Australian dollars:
- (b) **exchange rate** is the close of trading spot exchange rate for the Australian dollar on—
- (i) the day the dividend is declared if that day is no more than 3 months before the dividend is paid; or
- (ii) the day the dividend is paid if that day is more than 3 months after the dividend is declared.

Defined in this Act: amount, Australian ICA company, basic rate, close of trading spot exchange rate, company, dividend, FDWP credit, ICA company, imputation credit, imputation ratio, income year, pay, tax year

Origin: 2004 No 35 ss ME 1B, ME 6

**MB 56 ICA benchmark dividend rules**

***When this section applies***

- (1) This section applies when an ICA company pays a dividend on more than 1 occasion during a tax year. Subsection (2) overrides this subsection.

***Exclusions***

- (2) This section does not apply to the following dividends:
- (a) a dividend that is the subject of an election by a statutory producer board under sections MB 66 to MB 68:
  - (b) a dividend that is the subject of an election by a co-operative company under sections MB 71 to MB 73:
  - (c) a dividend paid when the company is not an ICA company.

***Benchmark dividend***

- (3) The first dividend of the tax year is the benchmark dividend.

***Same imputation ratio***

- (4) The imputation ratio of a dividend paid after the benchmark dividend must be the same as the imputation ratio of the benchmark dividend.

***Breach of imputation ratio***

- (5) A breach of subsection (4) gives rise to an amount of an imputation debit described in table M2: imputation debits, row 16 (breach of imputation ratio) calculated using the formula in section MB 41(1).

***Ratio change declaration***

- (6) To prevent the consequences of a breach of subsection (4), an ICA company may notify the Commissioner that the dividend is not part of an arrangement to obtain a tax advantage by providing a ratio change declaration stating that the dividend is not part of an arrangement to which section GC 22 (Imputation: arrangement to obtain tax advantage) applies. The company must provide the declaration before the dividend is paid, or by a later date if the Commissioner allows. For the purposes of this subsection, the dividend must not be part of an arrangement to obtain a tax advantage.

***Consolidated imputation group***

- (7) This section applies, modified as necessary, to a consolidated imputation group as if it were a single company.

***Group debit***

- (8) Under section MP 2(2) (When credits and debits arise only in group accounts), a breach of an imputation ratio alternatively gives rise to an imputation debit described in table M20: imputation debits of consolidated imputation groups, row 14 (breach of imputation ratio) if the company is part of a consolidated imputation group.

***Treatment of group dividends***

- (9) In the application of this section to a consolidated imputation group, a dividend paid between group companies is disregarded.

Defined in this Act: arrangement, benchmark dividend, Commissioner, company, consolidated imputation group, co-operative company, dividend, ICA company, imputation debit, imputation ratio, notify, pay, statutory producer board, tax advantage, tax year

Origin: 2004 No 35 ss ME 8(2), ME 14(2)

## **MB 57 Retrospective attachment of imputation credits**

### ***Imputation credits attached retrospectively***

- (1) An ICA company that pays a non-cash dividend may attach retrospectively an imputation credit to the dividend if the amount of the dividend is later adjusted under section GD 13(3) or (4) (Cross border arrangements between associated persons).

### ***Amount of imputation credit***

- (2) The amount of all imputation credits attached retrospectively under subsection (1) during a tax year must not be more than the lesser of—
  - (a) the credit balance of the company's imputation credit account at the end of the tax year in which the dividend is paid; or
  - (b) the credit balance of the company's imputation credit account at the end of each of the tax years in the period that runs from the tax year of payment of the dividend to the tax year in which the credit is attached retrospectively under subsection (1).

### ***When subsection (4) applies***

- (3) Subsection (4) applies if—
  - (a) a company provides a company dividend statement and issues a shareholder dividend statement for a non-cash dividend at the time it retrospectively attaches an imputation credit; and
  - (b) the adjustment under section GD 13(3) or (4) results in a payment of income tax; and
  - (c) the attachment of the imputation credit would otherwise result in a liability for imputation penalty tax.

### ***New credit date***

- (4) The credit date for the imputation credit arising for the payment of the income tax referred to in subsection (3)(b) is the day on which the non-cash dividend is paid, and the company is excused a breach of section 69 of the Tax Administration Act 1994 for failure to file a correct annual imputation return through the retrospective attachment of an imputation credit.

### ***Statements still required***

- (5) A company that fails to satisfy subsection (3)(a) remains liable to provide a company dividend statement and to issue a shareholder dividend statement for the non-cash dividend and the retrospective attachment of an imputation credit.

Defined in this Act: amount, annual imputation return, company, company dividend statement, ICA company, imputation credit, imputation credit account, imputation penalty tax, income tax, non-cash dividend, pay, shareholder, shareholder dividend statement, tax year

Origin: 2004 No 35 s ME 6

### ***Further income tax***

#### **MB 58 Further income tax for ICA closing debit balance**

##### ***Liability***

- (1) An ICA company is liable to pay further income tax for a debit balance in the company's imputation credit account at the end of a tax year.

##### ***Exclusion***

- (2) An imputation debit arising described in table M2: imputation debits, row 19 (transfer from member fund) is disregarded when determining under subsection (1) if the company has a debit balance at the end of a tax year.

##### ***Due date***

- (3) The company must pay the further income tax to the Commissioner no later than 20 June following the end of the tax year.

Defined in this Act: Commissioner, company, further income tax, ICA company, imputation credit account, imputation debit, pay, tax year

Origin: 2004 No 35 s ME 9(1), (1a), (2)

#### **MB 59 Further income tax when company stops being ICA company**

##### ***Liability***

- (1) An ICA company is liable to pay further income tax for a debit balance in the company's imputation credit account when the company stops being an ICA company.

##### ***Due date***

- (2) The company must pay the further income tax to the Commissioner on the day the company stops being an ICA company.

##### ***Paramount section***

- (3) A company that stops being an ICA company on the last day of a tax year is liable to pay further income tax under this section and not under section MB 58.

Defined in this Act: Commissioner, company, further income tax, ICA company, imputation credit account, pay, tax year

Origin: 2004 No 35 s ME 9(3)

## **MB 60 Reduction of further income tax**

### ***Debit at previous year-end***

- (1) An ICA company's liability for further income tax under sections MB 58 and MB 59 may be reduced under subsection (2) if—
- (a) a debit balance existed in the company's imputation credit account at the end of a tax year; and
  - (b) the credit that arises in the account in the following tax year totals less than the debit balance; and
  - (c) the company notifies the Commissioner.

### ***Amount of reduction***

- (2) The liability is reduced by the amount that is the debit balance for the tax year less the total amount of credits for the following tax year.

### ***Qualifying companies***

- (3) The liability of an ICA company that is a qualifying company for further income tax under sections MB 58 and MB 59 may be reduced under subsection (4) if an imputation debit described in table M2: imputation debits, row 4 (refund of income tax) arises in the company's imputation credit account before the end of the tax year for which the liability arises.

### ***Amount of reduction***

- (4) The liability of the qualifying company for further income tax at the end of the tax year referred to in subsection (3) is reduced by an amount calculated using the formula—

refunds - credits.

### ***Definition of items in formula***

- (5) In the formula,—
- (a) **refunds** is the total amount of all refunds of income tax paid to the company before the debit balance creating the liability for further income tax referred to in subsection (3) arises:
  - (b) **credits** is the total amount of all credits to the company's imputation credit account for the period that runs from the tax year in which the first refund was received to the time the calculation is made.

Defined in this Act: amount, Commissioner, further income tax, ICA company, imputation credit account, imputation debit, imputation rules, income tax, notify, qualifying company, tax year

Origin: 2004 No 35 s ME 9(7)-(9)

### **MB 61 Income tax paid satisfying liability for further income tax**

#### ***Election***

- (1) On meeting the requirements in subsection (2), an ICA company that is liable for further income tax may choose to satisfy the liability through a payment of income tax.

#### ***Requirements***

- (2) The company must pay the income tax—
  - (a) after the end of the tax year in which the relevant debit balance arises; and
  - (b) for an income year corresponding to the tax year in which the company is an ICA company.

#### ***Payment credited***

- (3) The payment of income tax satisfies the company's liability to pay further income tax.

#### ***When treated as paid***

- (4) The further income tax is treated as paid on the date on which the Commissioner receives the payment of income tax.

Defined in this Act: Commissioner, company, further income tax, ICA company, income tax, income year, pay, tax year

Origin: 2004 No 35 s ME 9(5A), (8), (9)

### **MB 62 Further income tax paid satisfying liability for income tax**

#### ***Election***

- (1) An ICA company that pays further income tax may choose to treat the payment as satisfying a liability of the company to pay income tax or provisional tax.

#### ***ICA company status***

- (2) The liability for income tax or provisional tax referred to in subsection (1) must be for an income year corresponding to a tax year in which the company is an ICA company.

***Alternative for consolidated imputation group***

- (3) A company that is part of a consolidated imputation group may choose that the payment under subsection (1) satisfies a group liability for income tax or provisional tax that arises at or after the time of payment.

***When treated as paid***

- (4) The liability for income tax or provisional tax is treated as paid on the day on which the further income tax is paid.

***Australian ICA company***

- (5) An Australian ICA company may choose to convert a payment of further income tax into an available net loss of an amount calculated under subsection (7). Subsection (6) overrides this subsection.

***Requirement***

- (6) The election under subsection (5) may be made only if no possibility exists that the further income tax can be credited against a future income tax liability of the company.

***Available net loss***

- (7) For the purposes of subsection (5), the amount of the available net loss for the payment of further income tax is calculated using the formula—

$$\frac{\text{further income tax paid}}{\text{tax rate.}}$$

***Definition of items in formula***

- (8) In the formula,—
- (a) **further income tax paid** is the amount of further income tax paid that is not credited against an income tax liability:
  - (b) **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) at the time the further income tax is paid.

***Benefit of the loss***

- (9) For the purposes of subsection (5), the company may choose that the available net loss is attributed to itself or another company in the same wholly-owned group.

***When loss is attributed***

- (10) The available net loss referred to in subsection (5) is a loss for the income year corresponding to the tax year in which the company paid the further income tax.

Defined in this Act: amount, Australian ICA company, available net loss, basic rate, consolidated imputation group, further income tax, ICA company, income tax, income tax liability, income year, pay, provisional tax, tax year, wholly-owned group

### **MB 63 Application of other provisions**

When it is appropriate for the purposes of this section, the other sections of this Act and the Tax Administration Act 1994—

- (a) apply to further income tax as if they addressed further income tax and not income tax; and
- (b) apply, modified as necessary, to ensure their application to further income tax rather than income tax; and
- (c) do not override the imputation rules or section 101 of the Tax Administration Act 1994.

Defined in this Act: further income tax, imputation rules, income tax

Origin: 2004 No 35 s ME 9(6)

### ***Additional income tax***

### **MB 64 Additional income tax on leaving wholly-owned group**

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

- (1) This section applies in a tax year when—
  - (a) a company (**company A**) stops being part of a wholly-owned group of companies because of a change in the ultimate owner of the company; and
  - (b) the total amount of available net losses from the previous tax year for companies in the group is more than \$1,000,000.

#### ***Liability for additional income tax***

- (2) At the time company A stops being part of the group, it is liable for additional income tax on a debit balance of the company's imputation credit account but, in dealing with the liability, it may transfer some or all of the debit balance under subsection (3) or choose to use its excess entitlement under subsection (4), or a combination of both.

#### ***Debit balance***

- (3) Company A may choose to transfer under section MB 42 some or all of a debit balance in the company's imputation credit account to another company (**company B**) in the same group. An additional income tax liability remains for the amount of the debit balance that is not transferred.



***Payment of tax***

- (4) Company A may choose to use the amount of the excess entitlement described in subsection (5) as follows:
- (a) company A may choose to treat company B as having paid provisional tax or income tax but only to the extent to which the amount is not more than the excess entitlement;
  - (b) company A may choose to use the amount of the excess entitlement under subsection (2) against the liability for additional income tax but only to the extent to which the amount is not more than the amount referred to in paragraph (a).

***Amount of excess entitlement***

- (5) Company A's excess entitlement at the time it stops being part of the group is 1 of the following amounts:
- (a) zero, if the credit balance of its imputation credit account at the time is equal to or more than—
    - (i) the amount in the tax pooling account provided by or for the benefit of company A that is more than its liability to pay income tax or provisional tax at the time; or
    - (ii) the entitlement company A would have to a refund under section MD 1 (Refund of excess tax) of the Income Tax Act 2004 as if section MD 2 (Limit on refunds and allocations of tax) of that Act did not apply; or
  - (b) the total of the amounts referred to in paragraph (a)(i) and (ii) if no credit balance exists at the time; or
  - (c) the excess of the credit balance over the total of the amounts referred to in paragraph (a)(i) and (ii), if paragraph (b) does not apply.

***Due date***

- (6) The additional income tax must be paid to the Commissioner no later than the 20th day of the month following the month in which company A stops being part of the group.

***Joint liability***

- (7) Company A and all companies in the group are jointly liable for the additional income tax. A payment of additional income tax does not satisfy any other liability of company A or the group.

***Payment by excess tax***

- (8) Company A, or another company in the group, may choose to apply an excess tax payment to satisfy company A's liability.

***Form of election***

- (9) An election under this section must follow the form of an election under section MB 13(4).

Defined in this Act: additional income tax, amount, available net loss, Commissioner, company, excess tax payment, imputation credit account, income tax, income tax liability, pay, provisional income tax, tax year, ultimate owner, wholly-owned group

Origin: 2004 No 35 s ME 9B

## **MB 65 Additional income tax on joining wholly-owned group**

### ***Liability***

- (1) An ICA company to which subsection (2) applies may be liable for additional income tax under—
  - (a) subsection (3) as the company's first liability under this section; or
  - (b) subsection (5) as the company's second liability under this section.

### ***Liable company***

- (2) The company is 1 to which all of the following apply:
  - (a) the company is or was recently part of a wholly-owned group of companies (called the **former group**); and
  - (b) the company has or will soon join a different wholly-owned group of companies (called the **new group**); and
  - (c) the former group has available net losses of more than \$1,000,000 for the tax year before the income year corresponding to the tax year in which the company changes groups.

### ***First liability***

- (3) The company is liable for additional income tax if, at a particular time,—
  - (a) a debit balance exists in the company's imputation credit account; and
  - (b) an imputation debit arose when the company was part of the former group; and
  - (c) the additional income tax liability of the company has not been paid under section MB 64 by the company or another company in the former group.

### ***Amount of liability***

- (4) The amount of the additional income tax liability under subsection (3) is equal to the amount of the imputation debit at the time the company becomes part of the new group.

### ***Second liability***

- (5) The company is liable for an amount of additional income tax equal to the excess entitlement determined under subsection (6).

***Excess entitlement***

- (6) The company's excess entitlement at a particular time is 1 of the following amounts:
- (a) zero, if the credit balance of the company's imputation credit account at the time is equal to or more than—
    - (i) the amount in the tax pooling account provided by or for the benefit of the company that is more than the company's liability to pay income tax or provisional tax at the time; or
    - (ii) the company's entitlement to a refund under section MD 1 (Refund of excess tax) of the Income Tax Act 2004; or
  - (b) the total of the amounts referred to in paragraph (a)(i) and (ii) if no credit balance exists at the time; or
  - (c) the excess of the credit balance over the total of the amounts referred to in paragraph (a)(i) and (ii), if paragraph (b) does not apply.

***Due date***

- (7) The additional income tax must be paid to the Commissioner no later than the 20th day of the month following the month in which the company stops being part of the former group.

***Joint liability***

- (8) The company and all companies in the new group are jointly liable for the additional income tax. A payment of additional income tax does not satisfy any other liability of the company or the new group.

***Payment by excess tax***

- (9) For a liability under subsections (3) and (5), the company or another company in the new group may choose to satisfy the liability by applying an excess tax payment in discharging it.

Defined in this Act: additional income tax, amount, company, Commissioner, excess tax payment, ICA company, imputation credit account, imputation debit, income tax liability, income year, pay, provisional tax, wholly-owned group

Origin: 2004 No 35 s ME 9C

## *Distributions of statutory producer boards and co-operative companies*

### **MB 66 Statutory producer boards attaching imputation credits to cash distributions**

#### *Election*

- (1) On meeting the requirements in subsection (2), a statutory producer board that is an ICA company may choose, for an income year, to attach an imputation credit to a cash distribution paid to a member of the producer board.

#### *Requirements*

- (2) The producer board may make an election under subsection (1) if—
- (a) the distribution is made to all persons who were members of the board at a time in the income year; and
  - (b) the board proposes to pay the distribution based on 1 of the factors set out in subsection (3); and
  - (c) the board would, if this section did not exist, be allowed a deduction for some or all of the distribution, whether as a rebate under section HF 1 (Profits of mutual associations in respect of transactions with members) or under some other provision of this Act.

#### *Methods*

- (3) The amount of the distribution must be based on 1 of the following methods of determination, as applicable, for an income year:
- (a) all payments for a member's produce transactions during the income year as a proportion of total payments for all members' produce transactions during the income year; or
  - (b) all levies payable by a member for the income year as a proportion of total levies payable by members for the income year; or
  - (c) another method of determination approved by the Commissioner.

#### *Total credits attached*

- (4) The total amount of imputation credit attached to the distribution is calculated using the formula—

$$\text{total net dividend} \quad \times \quad \frac{\text{tax rate}}{1 - \text{tax rate}}$$

*Definition of items in formula*

- (5) In the formula in subsection (4),—
- (a) **total net dividend** is the total amount of the distribution excluding the amount of imputation credit:
  - (b) **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year.

*Member's credits*

- (6) The amount of a member's share of an imputation credit attached under subsection (4) is calculated using the formula—

$$\frac{\text{member's distribution}}{\text{total distribution}} \quad \times \quad \text{total imputation credit attached.}$$

*Definitions of items in formula*

- (7) In the formula in subsection (6),—
- (a) **member's distribution** is the amount of the member's share of the distribution excluding the amount of imputation credit:
  - (b) **total distribution** is the amount of the total distribution paid excluding the amount of imputation credit:
  - (c) **total imputation credit attached** is total amount of imputation credit attached to the distribution calculated under subsection (4).

*When producer board chooses not to have deduction*

- (8) If a producer board chooses to treat a distribution as a dividend, it is denied a deduction for the amount of the distribution under section DV 14 (Statutory producer boards and co-operative companies).

Defined in this Act: amount, basic rate, Commissioner, deduction, dividend, ICA company, imputation credit, income tax, income year, levy, member, pay, produce transactions, rebate, statutory producer board

Origin: 2004 No 35 s ME 30

**MB 67 Statutory producer boards attaching imputation credits to notional distributions**

*Election*

- (1) A statutory producer board that is an ICA company may choose, for an income year, to attach an imputation credit to a notional distribution, as a result of which a member derives a dividend of an amount calculated under section MB 68(2). Subsections (2) and (8) override this subsection.

***All members***

- (2) A statutory producer board may make an election under subsection (1) only if the distribution is made to all persons who were members of the producer board at a time in the income year.

***Methods***

- (3) The producer board may determine that the amount of an imputation credit attached to a notional distribution is based on—
- (a) produce transactions, and calculated under subsection (5) for each member; or
  - (b) members' levies, and calculated under subsection (7) for each member; or
  - (c) a combination of paragraphs (a) and (b); or
  - (d) some other method of determination approved by the Commissioner.

***Produce transactions***

- (4) The amount of an imputation credit attached to a member's distribution that is based on produce transactions is calculated using the formula—

$$\frac{\text{member's payment}}{\text{total payments}} \times \text{total credit.}$$

***Definition of items in formula***

- (5) In the formula in subsection (4),—
- (a) **member's payments** is the total amount of all payments to or by a member for the member's produce transactions during the income year:
  - (b) **total payments** is all payments to or by all members for produce transactions during the income year:
  - (c) **total credit** is the total amount of the imputation credit attached to the distribution.

***Members' levies***

- (6) An imputation credit attached to a member's distribution that is based on members' levies is calculated using the formula—

$$\frac{\text{member's levies}}{\text{total levies}} \times \text{total credit.}$$

***Definition of items in formula***

- (7) In the formula in subsection (6),—
- (a) **member's levies** is the total amount of all levies payable by a member to the producer board for the income year:
  - (b) **total levies** is total amount of all levies payable by all members to the producer board for the income year:

- (c) **total credit** is the total amount of imputation credit attached to the distribution.

***Commissioner's determination***

- (8) The Commissioner may apply subsections (4) to (7) to determine the amount of the imputation credit to be treated as attached to a member's distribution if the Commissioner considers that the producer board's application of subsections (3) to (7) does not result in a fair and reasonable allocation of an amount of imputation credit to a member having regard to—
- (a) the produce transactions of the producer board; and
  - (b) the levies payable to the producer board; and
  - (c) another relevant factor.

Defined in this Act: amount, Commissioner, dividend, ICA company, imputation credit, income year, levy, member, pay, produce transactions, statutory producer board

Origin: 2004 No 35 s ME 32

**MB 68 Statutory producer boards' notional distributions that are dividends**

***Dividend derived***

- (1) A notional distribution to which section MB 67 applies that has an imputation credit attached is a dividend under section CD 8 (Notional distributions of producer boards and co-operative companies) derived by a member.

***Calculation of amount***

- (2) The amount of the dividend is calculated using the formula—

$$\frac{\text{credit attached}}{\text{tax rate}} - \text{credit attached.}$$

***Definitions of items in formula***

- (3) In the formula,—
- (a) **credit attached** is the amount of imputation credit attached to the member's distribution:
  - (b) **tax rate** is the decimal fraction that is the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year.

***When derived***

- (4) The member derives the dividend on the date the producer board chooses under section MB 67 to make a notional distribution.

***Returns and information***

- (5) For the purposes of this section, the producer board must—
- (a) include the details of the dividend with the return of income filed for the tax year corresponding to the income year in relation to which the distribution was made; and
  - (b) retain relevant information to enable the Commissioner to determine whether a later distribution is not a dividend under section CD 18(3) or CD 24(1) (which relate to capital distributions on liquidation and payments that correspond to notional distributions).

Defined in this Act: amount, basic rate, Commissioner, company, distribution, dividend, imputation credit, income tax, income year, member, pay, producer board, return of income

Origin: 2004 No 35 s ME 33

**MB 69 Statutory producer boards attaching FDWP credits**

***FDWP credits attached***

- (1) A statutory producer board that is an FDWP company may choose, for an income year, to attach an FDWP credit to a cash distribution or a notional distribution. An FDWP credit may be attached in conjunction with an imputation credit.

***Application of provisions***

- (2) Sections MB 66 to MB 68 and MB 70 apply, modified as necessary, to the producer board, the distribution, and the FDWP credit.

***Both credits at once***

- (3) A producer board may choose to attach both an imputation credit and an FDWP credit as part of 1 distribution.

Defined in this Act: FDWP company, FDWP credit, imputation credit, income year, statutory producer board

Origin: 2004 No 35 s ME 34

**MB 70 When and how statutory producer board makes election**

***Timing of election***

- (1) A statutory producer board may make an election under section MB 66, MB 67, or MB 69 in relation to a distribution either—
- (a) after the income year in relation to which the distribution is made; or
  - (b) no later than 6 months after the end of the income year in relation to which the distribution is made.



*Notice*

- (2) A producer board must notify the Commissioner of an election referred to in subsection (1) no later than the time allowed for the producer board to file a return of income for the tax year corresponding to the income year in relation to which the distribution is made.

Defined in this Act: Commissioner, dividend, income year, return of income, statutory producer board, tax year

Origin: 2004 No 35 s ME 30(3), (4)

**MB 71 Co-operative companies attaching imputation credits to cash distributions**

*Election*

- (1) On meeting the requirements in subsection (2), a co-operative company that is an ICA company may choose, for an income year, to attach an imputation credit to a cash distribution paid to the company's shareholders.

*Requirements*

- (2) A co-operative company may make an election under subsection (1) if—
- (a) the distribution is made to all persons who were shareholders of the company at a time during the income year; and
  - (b) the distribution is based on the proportion for the income year in which the payments to or by a shareholder for their produce transactions are of total payments to or by all shareholders for all produce transactions; and
  - (c) the company would, if this section did not exist, be allowed a deduction for some or all of the distribution, whether as a rebate under section HF 1 (Profits of mutual associations in respect of transactions with members) or some other provision of this Act; and
  - (d) no other election for a cash distribution is made for the income year.

*Total credit attached*

- (3) The total amount of imputation credit attached to the distribution is calculated using the formula—

$$\text{total net dividend} \quad \times \quad \frac{\text{tax rate}}{1 - \text{tax rate}}.$$

*Definition of items in formula*

- (4) In the formula in subsection (3),—
- (a) **total net dividend** is the total amount of the distribution excluding the amount of imputation credit:

- (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year.

***Shareholder's credit***

- (5) The amount of a shareholder's share of the imputation credit attached as described in subsection (3) is calculated using the formula—

$$\frac{\text{shareholder's distribution}}{\text{total distribution}} \times \text{total imputation credit attached.}$$

***Definition of items in formula***

- (6) In the formula in subsection (5),—
- (a) **shareholder's distribution** is the amount that is the shareholder's share of the distribution, excluding the amount of imputation credit:
- (b) **total distribution** is the amount of the total distribution paid, excluding the amount of imputation credit:
- (c) **total imputation credit attached** is total amount of imputation credit attached to the distribution calculated under subsection (3).

***When co-operative company chooses not to have deduction***

- (7) If a co-operative company chooses to treat a distribution as a dividend, it is denied a deduction under section DV 14 (Statutory producer boards and co-operative companies). The company must notify the Commissioner of an election under this subsection under section MB 75(3) for the election to be effective.

Defined in this Act: amount, basic rate, co-operative company, deduction, dividend, ICA company, imputation credit, income tax, income year, Maori authority, notify, pay, produce transactions, rebate, shareholder

Origin: 2004 No 35 s ME 36

**MB 72 Co-operative companies attaching imputation credits to notional distributions**

***Election***

- (1) On meeting the requirements in subsection (2), a co-operative company that is an ICA company may choose, for an income year, to attach an imputation credit to a notional distribution, as a result of which a member derives a dividend of an amount calculated under section MB 73.

***Requirements***

- (2) A co-operative company may make an election under subsection (1) if—
- (a) the distribution is made to all persons who were shareholders of the company at a time during the income year; and

- (b) no other election to pay a notional distribution is made for the income year.

***Shareholder's credits***

- (3) The amount of a shareholder's share of an imputation credit attached to a notional distribution is calculated using the formula—

$$\frac{\text{produce payments}}{\text{total payments}} \times \text{total credit.}$$

***Definition of items in formula***

- (4) In the formula,—
- (a) **produce payments** is the amount of all payments to or by the shareholder for the shareholder's produce transactions during the income year:
  - (b) **total payments** is the amount of all payments to or by shareholders for produce transactions during the income year:
  - (c) **total credit** is total amount of imputation credit that the company attaches to the distribution.

Defined in this Act: amount, co-operative company, dividend, ICA company, imputation credit, income year, member, pay, rebate, shareholder

Origin: 2004 No 35 s ME 37

**MB 73 Co-operative companies' notional distributions that are dividends**

***Dividends***

- (1) A notional distribution referred to in section MB 72 that has an imputation credit attached is a dividend under section CD 8 (Notional distributions of producer boards and co-operative companies) derived by a shareholder of the co-operative company.

***Amount***

- (2) The amount of a shareholder's dividend is calculated using the formula—

$$\frac{\text{credit attached}}{\text{tax rate}} - \text{tax rate.}$$

***Definition of items in formula***

- (3) In the formula,—
- (a) **credit attached** is the amount of imputation credit attached to the shareholder's distribution:
  - (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) for the income year.

***When derived***

- (4) The shareholder derives the dividend on the date the co-operative company chooses under section MB 72 to make a notional distribution.

Defined in this Act: amount, basic rate, co-operative company, dividend, imputation credit, income tax, income year, shareholder

Origin: 2004 No 35 s ME 38

**MB 74 Co-operative companies attaching FDWP credits**

***Election***

- (1) A co-operative company that is an FDWP company may choose, for an income year, to attach an FDWP credit to a cash distribution. The FDWP credit may be attached in conjunction with an imputation credit.

***Application of provisions***

- (2) Sections MB 71 to MB 73 and section 64 of the Tax Administration Act 1994 apply, modified as necessary, to the co-operative company, the distribution, and the FDWP credit.

***Both credits at once***

- (3) A co-operative company may choose to attach both an imputation credit and an FDWP credit as part of 1 distribution.

Defined in this Act: co-operative company, FDWP company, FDWP credit, imputation credit, income year

Origin: 2004 No 35 s ME 39

**MB 75 When and how co-operative company makes election**

***One a year***

- (1) A co-operative company may make an election under section MB 71, MB 72, or MB 74 in relation to a distribution for—
- (a) only 1 cash distribution during the income year:
  - (b) only 1 notional distribution during the income year.

***Timing***

- (2) A co-operative company may make an election referred to in subsection (1)—
- (a) after the income year in relation to which the distribution is made; or
  - (b) no later than 6 months after the end of the income year in relation to which the distribution is made.

*Notice*

- (3) A co-operative company must notify the Commissioner of an election referred to in subsection (1)(a) no later than the time allowed for the company to file a return of income for the tax year corresponding to the income year in relation to which the distribution is made.

Defined in this Act: Commissioner, co-operative company, income year, notify, return of income, tax year

Origin: 2004 No 35 s ME 35