

Subpart MC—Foreign dividend withholding payment accounts

Contents

Introductory provisions

- MC 1 General rules for companies with FDWP accounts
- MC 2 FDWP accounts
- MC 3 Choosing to become FDWP company
- MC 4 When company chooses to stop being FDWP company

FDWP credits

Table M3: FDWP credits

- MC 5 FDWPA payment of FDWP
- MC 6 FDWPA derivation of dividend with FDWP credit
- MC 7 FDWPA payment of FDWP for transfer from conduit tax relief account
- MC 8 FDWPA transfer for net foreign attributed income
- MC 9 FDWPA payment of FDWP for conduit debit balance
- MC 10 FDWPA reversal of tax advantage arrangement

FDWP debits

Table M4: FDWP debits

- MC 11 FDWPA payment of dividend
- MC 12 FDWPA refund of FDWP
- MC 13 FDWPA overpayment of FDWP
- MC 14 FDWPA refund of tax credit
- MC 15 FDWPA transfer to imputation credit account
- MC 16 FDWPA transfer to conduit tax relief account
- MC 17 FDWPA transfer to policyholder credit account
- MC 18 FDWPA transfer to group account
- MC 19 FDWPA breach of FDWP ratio
- MC 20 FDWPA breach of FDWP ratio by PCA company
- MC 21 FDWPA debit for loss of shareholder continuity
- MC 22 FDWPA tax advantage arrangement
- MC 23 FDWPA final balance

FDWP credits attached to dividends

- MC 24 FDWP credits attached to dividends

- MC 25 FDWPA benchmark dividend rules
- MC 26 FDWP credits and imputation credits attached to dividends

Further FDWP

- MC 27 Payment of further FDWP for closing debit balance
- MC 28 Payment of further FDWP when company no longer New Zealand resident
- MC 29 Reduction of further FDWP
- MC 30 FDWP paid satisfying liability for further FDWP
- MC 31 Further FDWP paid satisfying liability for FDWP

Some definitions for section MC 20

- MC 32 Meaning of FDWP reference period
- MC 33 Meaning of maximum deficit debit
- MC 34 Meaning of policyholder FDWP ratio
- MC 35 Meaning of reduced deficit debit
- MC 36 Meaning of shareholder FDWP ratio

Introductory provisions

MC 1 General rules for companies with FDWP accounts

FDWP company

- (1) A company resident in New Zealand may choose to become an FDWP company.

FDWP accounts

- (2) An FDWP company must maintain an FDWP account for a tax year. The account is a record of FDWP credits and FDWP debits that arise in the account during the tax year.

Main credit

- (3) An FDWP company has an FDWP credit for an amount of FDWP paid under subpart NH (Dividend withholding payments) when the company derives a dividend from a non-resident company.

Main debit

- (4) An FDWP company has an FDWP debit for the amount of an FDWP credit attached to a dividend paid to the company's shareholders.

Treatment of FDWP credit by shareholder

- (5) The amount of an FDWP credit attached to a dividend derived by a shareholder is included in the amount of the dividend under section CD 9 (Tax credits linked to dividends).

Refunds

- (6) A person who derives a dividend with an FDWP credit attached has a refund under section LD 9 (Refund to non-resident or exempt shareholders) if the dividend is exempt income of the person.

Shareholder continuity requirement

- (7) The carrying forward of a credit in a company's FDWP account is subject to the shareholder continuity requirement in section MA 8 (Shareholder continuity requirements for memorandum accounts).

Imputation credits

- (8) If a company does not choose to become an FDWP company, a payment of FDWP on a dividend derived from a non-resident company is accounted for under the imputation rules under section MB 11 (ICA payment of FDWP).

Defined in this Act: amount, assessable income, company, dividend, exempt income, FDWP account, FDWP company, FDWP credit, FDWP debit, imputation rules, income, non-resident company, pay, resident in New Zealand, shareholder, tax year

Origin: 2004 No 35 ss CD 9, LD 9, ME 4(1)(e), (f), MG 2(1), (3), MG 5(3)

MC 2 FDWP accounts

General rules apply

- (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 the FDWP account of an FDWP company.

Consolidated groups

- (2) Under section MP 48 (When credits and debits arise only in consolidated FDWP group accounts), certain credits and debits do not arise in the account if the company is part of a consolidated group.

Defined in this Act: consolidated group, FDWP account, FDWP company, memorandum account

Origin: 2004 No 35 s MG 16(1), (4)

MC 3 Choosing to become FDWP company

Election

- (1) A company that chooses to become an FDWP company must notify the Commissioner of the election no later than 21 days after the date of the election or by a later date if the Commissioner allows it.

Effect of election

- (2) An FDWP company must maintain the FDWP account referred to in section MC 1(2) from the date of election.

Defined in this Act: Commissioner, company, FDWP account, FDWP company, notify

Origin: 2004 No 35 s MG 2(2), (3)

MC 4 When company chooses to stop being FDWP company

Election

- (1) An FDWP company may choose to stop being an FDWP company.

When election made

- (2) An FDWP company may make an election under subsection (1) only in a tax year that is later than the tax year in which the company chooses under section MC 3 to become an FDWP company.

When company's status ends

- (3) The company ends its status as an FDWP company from the start of the later tax year referred to in subsection (2) but only if, before the election, the company—
 - (a) files an annual FDWP return for the year of election in the time allowed by section 71 of the Tax Administration Act 1994; and
 - (b) pays an amount of further FDWP under section MC 27 or MC 28 for the year of election.

Defined in this Act: amount, annual FDWP return, FDWP, FDWP company, further FDWP, tax year

Origin: 2004 No 35 s MG 2 (4), (5)

FDWP credits

Table M3: FDWP credits

Row	FDWP credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Payment of FDWP</i>		
	FDWP paid	day of payment	section MC 5
3	<i>Payment of further FDWP</i>		
	Further FDWP paid	day of payment	section MC 5
4	<i>Derivation of dividend with FDWP credit</i>		
	An FDWP credit attached to a dividend derived	day the dividend is paid	section MC 6
5	<i>Payment of FDWP for transfer from conduit account</i>		
	FDWP paid on transfer from conduit tax relief account	31 March	section MC 7
6	<i>Transfer for net foreign attributed income</i>		
	A transfer from an imputation credit account on account of net foreign attributed income for an income year	debit date in the imputation credit account	section MC 8
7	<i>Payment of FDWP for conduit debit balance</i>		
	FDWP paid for a debit balance in a company's conduit tax relief account	day of payment	section MC 9
8	<i>Reversal of tax advantage arrangement</i>		
	The reversal of a debit for a tax advantage arrangement	debit date of the debit	section MC 10
<p>How to use this table Each row of the table describes—</p> <p>(a) the FDWP credits that may arise in the FDWP account of an FDWP company during a tax year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the FDWP credits is contained in the section noted in the last column.</p>			

MC 5 FDWPA payment of FDWP

Credit

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 2 (payment of FDWP) and row 3 (payment of further FDWP) for an amount of FDWP paid, including an amount of further FDWP paid under section MC 31. Subsection (2) overrides this subsection.

No credit

- (2) The company does not have a credit for FDWP paid—
- (a) under section NH 3(2) or (3) (Payment and recovery of dividend withholding payment) by the reduction of a net loss; and
 - (b) for a conduit tax relief debit referred to in section MD 23(2)(d) to (f) (FDWP payable for conduit tax relief debits).

Credit date

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

Defined in this Act: amount, conduit tax relief debit, FDWP, FDWP account, FDWP credit, further FDWP, net loss, pay

Origin: 2004 No 35 ss MG 4(1)(a), (c), (2)(a), (3), MI 10(2)

MC 6 FDWPA derivation of dividend with FDWP credit

Credit

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 4 (derivation of dividend with FDWP credit) for the amount of an FDWP 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: dividend, FDWP company, FDWP credit, pay

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

MC 7 FDWPA payment of FDWP for transfer from conduit tax relief account

Credit

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 5 (payment of FDWP for transfer from conduit account) for the amount of a payment of FDWP under section MD 23(2)(a) (FDWP payable for conduit tax relief debits).

Credit date

- (2) The credit date is the last day of the tax year.

Defined in this Act: amount, FDWP, FDWP company, FDWP credit, pay

Origin: 2004 No 35 s MG 4(1)(bb), (2)(bb)

MC 8 FDWPA transfer for net foreign attributed income

Credit

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 6 (transfer for net foreign attributed income) for an amount equal to the amount of the imputation debit described in table M2: imputation debits, row 12 (transfer for net foreign attributed income).

Credit date

- (2) The credit date is the same as the debit date recorded for the debit in the imputation credit account.

Defined in this Act: amount, FDWP company, FDWP credit, foreign attributed income, imputation credit account, imputation debit

Origin: 2004 No 35 s MG 4(1)(ba), (2)(ba)

MC 9 FDWPA payment of FDWP for conduit debit balance

Credit

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 7 (payment of FDWP for conduit debit balance) for the amount of a payment of FDWP under section MD 23(2)(b), (c), or (g) (FDWP payable for conduit tax relief debits).

Credit date

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

Defined in this Act: amount, FDWP, FDWP account, FDWP company, FDWP credit, pay

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

MC 10 FDWPA reversal of tax advantage arrangement

Credit

- (1) An FDWP company has an FDWP credit as described in table M3: FDWP credits, row 8 (reversal of tax advantage arrangement) for an amount equal to the amount of a debit in the company's FDWP account described in table M4: FDWP debits, row 13 (tax advantage arrangement).

Credit date

- (2) The credit date is the same as the debit date recorded for the debit.

Defined in this Act: amount, arrangement, FDWP account, FDWP company, FDWP credit, tax advantage

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

FDWP debits

Table M4: FDWP debits

Row	FDWP 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 FDWP credit attached to dividend paid	day of payment	section MC 11
3	<i>Refund of FDWP</i>		
	A refund of FDWP	day of refund	section MC 12
4	<i>Overpayment of FDWP</i>		
	Overpaid FDWP applied to satisfy a tax liability	day of application	section MC 13
5	<i>Refund of tax credit</i>		
	A refund of a tax credit	day of refund	section MC 14
6	<i>Transfer to imputation credit account</i>		
	A transfer of a closing credit balance to a company's imputation credit account	31 March	section MC 15
7	<i>Transfer to conduit tax relief account</i>		
	A transfer of a credit balance to a company's conduit tax relief account	31 March	section MC 16
8	<i>Transfer to policyholder credit account</i>		
	A transfer of a credit balance to a company's policyholder credit account	set out in section MC 17	section MC 17
9	<i>Transfer to group account</i>		
	A transfer of a credit to a group FDWP account	credit date under in group account	section MC 18
10	<i>Breach of FDWP ratio</i>		
	A debit for breach of an FDWP ratio	31 March	section MC 19

11	<i>Breach of FDWP ratio by PCA company</i>		
	A breach of FDWP ratio by FDWP company that is also a PCA company	31 March	section MC 20
12	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity	day of loss of continuity	section MC 21
13	<i>Tax advantage arrangement</i>		
	A debit for a tax advantage arrangement	last day of tax year in which the arrangement began	section MC 22
14	<i>Final balance</i>		
	A final balance when FDWP company status ends	day of cessation	section MC 23
<p>How to use this table</p> <p>Each row of the table describes—</p> <p>(a) the FDWP debits that may arise in the FDWP account of an FDWP company during a tax year; and</p> <p>(b) the debit date when the debit arises.</p> <p>A more detailed description of the FDWP debits and, as necessary, debit dates is contained in the section noted in the last column.</p>			

MC 11 FDWPA payment of dividend

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 2 (payment of dividend) for the amount of a FDWP 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, FDWP company, FDWP credit, FDWP debit, pay

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

MC 12 FDWPA refund of FDWP

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 3 (refund of FDWP) for the amount of a refund of FDWP paid to the company. Subsection (2) overrides this subsection.

No debit

- (2) The company does not have a debit for the amount of—
- (a) a refund to the extent to which it refunds FDWP paid before a debit described in table M4: FDWP debits, row 12 (debit for loss of shareholder continuity) arises; or
 - (b) a refund of FDWP paid under section MD 25 (Refunds on transfers to conduit tax relief account).

Debit date

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

Defined in this Act: amount, FDWP, FDWP account, FDWP company, FDWP debit, pay, shareholder

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

MC 13 FDWPA overpayment of FDWP

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 4 (overpayment of FDWP) for the amount of an overpayment of FDWP that is applied to satisfy an amount owing under the Inland Revenue Acts. Subsection (2) overrides this subsection.

No debit

- (2) The company does not have a debit for the amount of an overpayment of FDWP—
- (a) that is applied to satisfy a liability for FDWP; or
 - (b) that—
 - (i) relates to a payment of FDWP before an FDWP debit described in table M4: FDWP debits, row 12 (debit for loss of shareholder continuity) arises; and
 - (ii) is not more than 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, FDWP, FDWP company, FDWP debit, Inland Revenue Acts, pay, shareholder

Origin: 2004 No 35 s MG 5(1)(k), (2)(i)

MC 14 FDWPA refund of tax credit

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 5 (refund of tax credit) for the amount of refund under section LD 8(1)(c) (Credit of tax for dividend withholding payment credit in hands of shareholder) to the company.

Debit date

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

Defined in this Act: amount, FDWP company, FDWP debit

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

MC 15 FDWPA transfer to imputation credit account

Election

- (1) An FDWP company may choose for a tax year to transfer some or all of a closing credit balance in the company's FDWP account to the imputation credit account of—
 - (a) the company; or
 - (b) an imputation group of which the company is part.

Debit and credit

- (2) The amount transferred is—
 - (a) an FDWP debit described in table M4: FDWP debits, row 6 (transfer to imputation credit account) in the company's imputation credit account; and
 - (b) an imputation credit described in, as applicable,—
 - (i) table M1: imputation credits, row 10 (transfer from FDWP account) in the company's imputation credit account; or
 - (ii) table M19: imputation credits of consolidated imputation groups, row 11 (transfer from group company's FDWP account) in the imputation credit account of the consolidated imputation group.

Method of election

- (3) The company makes the election by recording the credit balance transferred as—
 - (a) a debit in the company's FDWP account; and
 - (b) a credit in the imputation credit account of—
 - (i) the company; or
 - (ii) the imputation group.

Conduit tax relief companies

- (4) Despite subsection (1), an FDWP company that is also a conduit tax relief company may not choose to make the transfer.

Debit date

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

Defined in this Act: amount, conduit tax relief company, consolidated imputation group, FDWP, FDWP account, FDWP company, FDWP debit, imputation credit, imputation credit account, imputation group, tax year

Origin: 2004 No 35 ss MG 5(1)(c), (2)(c), MG 11

MC 16 FDWPA transfer to conduit tax relief account

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 7 (transfer to conduit tax relief account) for an amount transferred when a credit balance in the company's FDWP account is treated under subsections (2) and (3) as transferred to the company's conduit tax relief account. The amount of the debit is the smaller of the credit balance and debit balance set out in subsection (2).

When debit arises

- (2) The debit for the transfer arises when—
- (a) a credit balance exists in the company's FDWP account just before the end of the tax year; and
 - (b) a debit balance exists in the company's conduit tax relief account just before the end of the tax year.

Determining balances

- (3) For the purposes of subsection (2), —
- (a) the credit balance in the FDWP account is found by including an FDWP credit described in table M3: FDWP credits, row 6 (transfer for net foreign attributed income); and
 - (b) the debit balance in the conduit tax relief account is found by including an conduit tax relief credit described in table M5: conduit tax relief credits, row 2 (rebate for conduit tax relief); and
 - (c) the debit balance and the credit balance are determined just before a transfer under this section is made.

Amount of debit and credit

- (4) The smaller of the debit balance or the credit balance referred to in subsection (2) becomes—
- (a) the FDWP debit described in table M4: FDWP debits, row 7 (transfer to conduit tax relief account); and
 - (b) the conduit tax relief credit described in table M5: conduit tax relief credits, row 3 (transfer from FDWP account).

Debit date

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

Defined in this Act: amount, conduit tax relief account, conduit tax relief credit, FDWP account, FDWP company, FDWP debit, foreign attributed income, income tax, tax year

Origin: 2004 No 35 ss MG 5(1)(ca), (2)(ca), MI 6(1)

MC 17 FDWPA transfer to policyholder credit account

Election

- (1) An FDWP 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 FDWP account to its policyholder credit account; or
 - (b) be treated as choosing to transfer a credit in the FDWP account to the policyholder credit account.

Debit and credit

- (2) The credit balance or the amount of the credit transferred is—
- (a) an FDWP debit described in table M4: FDWP debits, row 8 (transfer to policyholder credit account); and
 - (b) a policyholder credit described in table M13: policyholder credits, row 3 (transfer from FDWP account).

Method of election

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

Scope of election

- (4) If the credit balance in subsection (1)(a) includes an FDWP credit described in table M3: FDWP credits, row 4 (derivation of dividend with FDWP credit), the company must make the election under subsection (1) no later than the end of the tax year in which the debit date for the transfer of the FDWP credit occurs.

Mandatory transfer

- (5) Despite the absence of an election during the tax year, an FDWP company is treated as having chosen to transfer a credit balance that includes an FDWP credit described in table M3: FDWP credits, row 2 (payment of FDWP) during the tax year when the FDWP credit has not been cancelled by a subsequent FDWP debit described in table M4: FDWP debits, row 3 (refund of FDWP) before the end of the company's accounting year corresponding to the tax year.

Cancellation order

- (6) For the purposes of subsection (5), debits are treated as reducing credits in the order in which the credits arise.

Conduit tax relief companies

- (7) Despite subsection (1), an FDWP company that is also a conduit tax relief company may not choose to make the transfer.

Credit and debit dates

- (8) The credit dates and the debit dates for the credit balance and the credits transferred are—
- (a) the day of election for the credit balance transferred at the company's election under subsection (1); and
 - (b) the last day of the tax year for a credit that the company is treated under subsection (5) as having chosen to transfer.

Defined in this Act: accounting year, amount, conduit tax relief company, dividend, FDWP, FDWP account, FDWP company, FDWP credit, pay, PCA company, policyholder credit account, tax year

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

MC 18 FDWPA transfer to group account

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 9 (transfer to group account) for an amount equal to the amount of the FDWP credit described in table M21: FDWP credits of consolidated FDWP groups, row 5 (group company's credit) for the transfer of a credit to the FDWP account of the consolidated group of which the company is part.

Debit date

- (2) The debit date is the same as the credit date recorded in the consolidated group's FDWP account.

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

Origin: 2004 No 35 s MG 16(3)

MC 19 FDWPA breach of FDWP ratio

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 10 (breach of FDWP ratio) for a breach of the benchmark dividend rules in section MC 25(4) for an amount calculated using the formula—

$$\text{net dividends} \times \text{FDWP ratio} - \text{attached credits.}$$

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 imputation credits and FDWP credits attached to the dividends:
 - (b) **FDWP ratio** is the maximum FDWP ratio or, if it is less, the greatest FDWP ratio of dividends paid by the company during the tax year:
 - (c) **attached credits** is the amount of all FDWP credits attached to dividends paid by the company during the tax year.

Ratio change declaration

- (3) A debit under subsection (1) does not arise if the FDWP company provides a ratio change declaration under section MC 25(6).

Debit date

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

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

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

MC 20 FDWPA breach of FDWP ratio by PCA company

Debit

- (1) An FDWP company has an FDWP debit for a tax year as described in table M4: FDWP debits, row 11 (breach of FDWP ratio by PCA company) for an amount described in subsection (2) when—

- (a) the company is also a PCA company; and
- (b) the company is not also a conduit tax relief company; and
- (c) during the tax year the company pays a dividend with an FDWP credit attached; and

- (d) the dividend does not result from an election by—
 - (i) a statutory producer board under sections MB 66 to MB 68 (which relate to producer boards' notional distributions); or
 - (ii) a co-operative company under sections MB 71 to MB 73 (which relate to co-operative companies' notional distributions); and
- (e) a positive amount exists for the total amount of the company's policyholder income and policyholder net loss for the tax year under the policyholder base calculation for each tax year of the FDWP reference period; and
- (f) the shareholder FDWP ratio for the tax year is more than the policyholder FDWP ratio.

Amount of debit

- (2) The amount of the debit is—
 - (a) the maximum deficit debit if the credit balance in the FDWP account at the end of the tax year, but before the debit arises, is more than the maximum deficit debit; or
 - (b) the reduced deficit debit if paragraph (a) does not apply.

Consolidated group

- (3) This section applies, modified as necessary, to a consolidated group with a policyholder credit account as if the group were a single company. In the application of this section to the group—
 - (a) the definition of credits in the item **policyholder FDWP ratio** in section MC 34 is read as referring to a transfer under section NH 6(2) (Application of specific dividend withholding payment provisions to consolidated groups) to the group's policyholder credit account; and
 - (b) a dividend paid between group companies is disregarded.

Debit date

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

Defined in this Act: amount, company, conduit tax relief company, consolidated group, co-operative company, dividend, FDWP, FDWP account, FDWP company, FDWP credit, FDWP debit, FDWP ratio, FDWP reference period, income tax, Maori authority, maximum deficit debit, PCA company, policyholder base, policyholder credit account, policyholder FDWP ratio, policyholder income, policyholder net loss, reduced deficit debit, shareholder, shareholder FDWP ratio, statutory producer board, tax year

Origin: 2004 No 35 ss MG 5(1)(g),(2)(e), MG 8B, MG 16A(1B)

MC 21 FDWPA debit for loss of shareholder continuity

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 12 (debit for loss of shareholder continuity) for the amount equal to the

amount of an FDWP credit retained in the FDWP 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, FDWP account, FDWP company, FDWP credit, FDWP debit, shareholder

Origin: 2004 No 35 s MG 5(1)(i), (2)(g), (3), (4)

MC 22 FDWPA tax advantage arrangement

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 13 (tax advantage arrangement) for the amount of a debit for a tax advantage arrangement determined under section GC 22 (Imputation: arrangement to obtain tax advantage).

Debit date

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

Defined in this Act: amount, arrangement, FDWP company, FDWP debit, tax advantage

Origin: 2004 No 35 s MG 5(1)(h)

MC 23 FDWPA final balance

Debit

- (1) An FDWP company has an FDWP debit as described in table M4: FDWP debits, row 14 (final balance) for a credit balance in the FDWP account when the company stops being an FDWP company.

Debit date

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

Defined in this Act: FDWP account, FDWP company, FDWP debit

Origin: 2004 No 35 s MG 5(1)(j), (2)(i)

FDWP credits attached to dividends

MC 24 FDWP credits attached to dividends

Attaching FDWP credits

- (1) When an FDWP company pays a dividend, it may attach an FDWP credit to the dividend. Subsection (2) overrides this subsection.

Exclusion

- (2) Subsection (1) does not apply to an FDWP company that is also a conduit tax relief company.

FDWP ratio for dividend

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

$$\frac{\text{FDWP credits attached}}{\text{net dividends.}}$$

Definition of items in formula

- (4) In the formula in subsection (3),—
- (a) **FDWP credits attached** is the amount of FDWP credits that the company attaches to the dividends:
- (b) **net dividends** is the amount of dividends paid, excluding imputation credits and FDWP credits.

Maximum permitted ratio

- (5) A dividend with an FDWP credit attached must not have an FDWP ratio that is more than the maximum FDWP 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 corresponding with the tax year in which the dividend is paid.

Defined in this Act: amount, basic rate, company, conduit tax relief company, dividend, FDWP, FDWP account, FDWP company, FDWP credit, FDWP ratio, income tax, income year, pay, tax year

Origin: 2004 No 35 ss MG 6, MG 8(1)

MC 25 FDWPA benchmark dividend rules

When this section applies

- (1) This section applies when an FDWP 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 a dividend that is the subject of an election by—
 - (a) a statutory producer board under sections MB 66 to MB 68 (which relate to statutory boards' notional distributions); and
 - (b) a co-operative company under sections MB 71 to MB 73 (which relate to co-operative companies' notional distributions).

Benchmark dividend

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

Same FDWP ratio

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

Breach of FDWP ratio

- (5) A breach of subsection (4) gives rise to an FDWP debit as described in table M4: FDWP debits, row 10 (breach of FDWP ratio) for an amount calculated using the formula in section MC 19.

Ratio change declaration

- (6) To prevent the consequences of a breach of subsection (4), an FDWP 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 group

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

Group debit

- (8) Under section MP 48 (When credits and debits arise only in consolidated FDWP group accounts), a breach of an FDWP ratio alternatively gives rise to an FDWP debit described in table M22: FDWP debits of consolidated group, row 9 (breach of FDWP ratio) if the company is part of a consolidated group.

Treatment of group dividends

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

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

Origin: 2004 No 35 ss MG 8(2), (3), MG 16A(1)

MC 26 FDWP credits and imputation credits attached to dividends

Attaching combined credits

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

Combined ratio

- (2) A dividend with combined credits attached has a combined imputation and FDWP ratio calculated using the formula—

$$\frac{\text{combined credits attached}}{\text{net dividends.}}$$

Definition of items in formula

- (3) In the formula in subsection (2),—
- (a) **combined credits attached** is the total amount of FDWP credits and the imputation credits attached to the dividend:
- (b) **net dividends** is the amount of dividends paid, excluding the amount of FDWP credits and the imputation credits.

Maximum permitted ratio

- (4) A dividend with combined credits attached must not have a combined imputation and FDWP ratio that is more than the maximum ratio calculated using the formula—

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

Definition of item in formula

- (5) In the formula in subsection (4), **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 corresponding with the tax year in which the dividend is paid.

Breach of combined ratio breach

- (6) A breach of the maximum ratio set out in subsection (4) gives rise to an excess credit amount that is calculated using the formula—

$$\text{net dividends} \times (\text{combined ratio} - \text{maximum ratio}).$$

Definition of items in formula

- (7) In the formula,—
- (a) **net dividends** is the amount of dividends paid, excluding FDWP credits and the imputation credits:
 - (b) **combined ratio** is the combined imputation and FDWP ratio of the dividend:
 - (c) **maximum ratio** is the maximum combined imputation and FDWP ratio permitted under subsection (4).

Defined in this Act: basic rate, combined imputation and FDWP ratio, company, dividend, excess credit amount, FDWP company, FDWP credit, FDWP ratio, imputation credit, income tax, pay, tax year

Origin: 2004 No 35 s MG 10

Further FDWP

MC 27 Payment of further FDWP for closing debit balance

Liability

- (1) An FDWP company or consolidated group is liable to pay further FDWP for a closing debit balance in the FDWP account of the company or the group.

Due date

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

Application of other provisions

- (3) 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 FDWP as if they addressed further FDWP and not income tax; and
 - (b) apply, modified as necessary, to ensure their application to further FDWP rather than income tax; and
 - (c) do not override the FDWP rules or section 103 of the Tax Administration Act 1994.

Defined in this Act: amount, Commissioner, company, FDWP account, FDWP company, FDWP rules, further FDWP, income tax, pay, tax year

Origin: 2004 No 35 s MG 9(1), (2), (6)

MC 28 Payment of further FDWP when company no longer New Zealand resident

Liability

- (1) An FDWP company is liable to pay further FDWP for a debit balance in the company's FDWP account when the company stops being resident in New Zealand.

Due date

- (2) The company must pay the further FDWP to the Commissioner on the day the company ends its residence in New Zealand.

Paramount section

- (3) A company that stops being an FDWP company on the last day of a tax year is liable for further FDWP under this section and not under section MC 27.

Application of other provisions

- (4) Section MC 24(3) applies to the treatment of further FDWP under this section.

Defined in this Act: Commissioner, FDWP account, FDWP company, FDWP rules, further FDWP, pay, resident in New Zealand, tax year

Origin: 2004 No 35 s MG 9(3)

MC 29 Reduction of further FDWP

Debit at previous year-end

- (1) An FDWP company's liability for further FDWP under section MC 27 or MC 28 may be reduced under subsection (2) if—
 - (a) a debit balance existed in the company's FDWP account at the end of a tax year; and
 - (b) a 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.

Defined in this Act: amount, Commissioner, FDWP account, FDWP company, FDWP credit, further FDWP, tax year

Origin: 2004 No 35 s MG 9(7), (8)

MC 30 FDWP paid satisfying liability for further FDWP

Election

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

Requirements

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

Payment credited

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

When treated as paid

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

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

Origin: 2004 No 35 s MG 9(5A)

MC 31 Further FDWP paid satisfying liability for FDWP

Election

- (1) A company that pays further FDWP may choose to treat the payment as satisfying a liability of the company to pay FDWP.

FDWP company status

- (2) The liability referred to in subsection (1) must be for an income year that corresponds with a tax year in which the company is an FDWP company.

Alternative for consolidated group

- (3) A company that is part of a consolidated group may choose that the payment under subsection (1) satisfies a group liability for FDWP owed by another group company when or after the payment is made.

Defined in this Act: company, consolidated group, FDWP, FDWP company, further FDWP, income year, pay, tax year

Origin: 2004 No 35 ss MG 9(5), MG 16(6)

Some definitions for section MC 20

MC 32 Meaning of FDWP reference period

When this section applies

- (1) This section applies for the purposes of sections MC 20 and MC 33 to MC 36.

Meaning

- (2) **FDWP reference period** means the period comprising the tax year and the longest period of consecutive tax years in which an FDWP company did not pay a dividend with an FDWP credit attached that—
- (a) starts on or after the debit date for the debit; and
 - (b) ends on the last day of the tax year that falls before the tax year in which the dividend referred to in section MC 20(1)(c) is paid.

Defined in this Act: dividend, FDWP company, FDWP credit, pay, tax year

Origin: 2004 No 35 s MG 8B(4)

MC 33 Meaning of maximum deficit debit

When this section applies

- (1) This section applies for the purposes of section MC 20.

Meaning

- (2) **Maximum deficit debit** means the amount calculated using the formula—

$$(\text{shareholder ratio} - \text{policyholder ratio}) \times \text{net result} \times (1 - \text{tax rate}).$$

Definition of items in formula

- (3) In the formula,—
- (a) **shareholder ratio** is an FDWP company's shareholder FDWP ratio for the FDWP reference period;
 - (b) **policyholder ratio** is the company's policyholder FDWP ratio for the FDWP reference period;
 - (c) **net result** is the amount of the company's policyholder income less its policyholder losses for the FDWP reference period under the policyholder base calculation for each tax year:

- (d) **tax rate** is the decimal fraction that is the basic rate of income tax set out in—
- (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
 - (ii) schedule 1, part A, clause 2 if the company is a Maori authority.

Defined in this Act: amount, basic rate, FDWP reference period, income tax, Maori authority, policyholder base, policyholder FDWP ratio, policyholder income, shareholder FDWP ratio, tax year

Origin: 2004 No 35 s MG 8B(4)

MC 34 Meaning of policyholder FDWP ratio

When this section applies

- (1) This section applies for the purposes of sections MC 20 and MC 33.

Meaning

- (2) **Policyholder FDWP ratio** means the amount calculated using the formula—

$$\frac{\text{total credits}}{\text{net result} \times (1 - \text{tax rate})}.$$

Definition of items in formula

- (3) In the formula,—
- (a) **total credits** is the total policyholder credits described in table M13: policyholder credits, row 3 (transfer from FDWP account) in an FDWP company's policyholder credit account during the FDWP reference period:
 - (b) **net result** is the amount of the company's policyholder income less the amount of policyholder net losses for the FDWP reference period under the policyholder base calculation for each tax year:
 - (c) **tax rate** is the decimal fraction that is the basic rate of income tax set out in—
 - (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
 - (ii) schedule 1, part A, clause 2 if the company is a Maori authority.

Defined in this Act: amount, basic rate, FDWP company, FDWP reference period, income tax, Maori authority, policyholder base, policyholder credit, policyholder credit account, policyholder net loss

Origin: 2004 No 35 s MG 8B(4)

MC 35 Meaning of reduced deficit debit

When this section applies

- (1) This section applies for the purposes of section MC 20.

Meaning

- (2) **Reduced deficit debit** means the amount calculated for a tax year using the formula—

$$\text{credit balance} + \text{credits attached} - \frac{\text{dividends} \times (\text{credits attached} + \text{credits} + \text{credit balance})}{\text{dividends} + (\text{net result} \times (1 - \text{tax rate}))}$$

Definition of items in formula

- (3) In the formula,—
- (a) **credit balance** is the credit balance in an FDWP company's FDWP account at the end of the previous tax year:
 - (b) **credits attached** is the total amount of all FDWP credits attached to dividends paid by the company during the FDWP reference period:
 - (c) **dividends** is the total amount of all dividends paid by the company during the FDWP reference period:
 - (d) **credits** is the total amount of policyholder credits described in table M13: policyholder credits, row 3 (transfer from FDWP account) in the company's policyholder credit account during the FDWP reference period:
 - (e) **credit balance** is the credit balance in the company's FDWP account at the end of the previous tax year:
 - (f) **net result** is the amount of the company's policyholder income less the amount of policyholder net losses for the FDWP reference period under the policyholder base calculation for each tax year:
 - (g) **tax rate** is the decimal fraction that is the basic rate of income tax set out in—
 - (i) schedule 1, part A, clause 5 (Basic rates of income tax and specified superannuation contribution withholding tax) if the company is not a Maori authority; or
 - (ii) schedule 1, part A, clause 2 if the company is a Maori authority.

Defined in this Act: amount, basic rate, dividend, FDWP account, FDWP company, FDWP credit, FDWP reference period, income tax, Maori authority, policyholder base, policyholder credit, policyholder credit account, policyholder net loss, tax year

Origin: 2004 No 35 s MG 8B(4)

MC 36 Meaning of shareholder FDWP ratio

When this section applies

- (1) This section applies for the purposes of sections MC 20 and MC 33.

Meaning

- (2) **Shareholder FDWP ratio** means the amount calculated using the formula—
- $$\frac{\text{credits attached}}{\text{total dividends.}}$$

Definition of items in formula

- (3) In the formula,—
- (a) **credits attached** is the total amount of all FDWP credits attached to dividends paid by an FDWP company during the FDWP reference period:
- (b) **total dividends** is the total amount of all dividends paid by the company during the FDWP reference period.

Defined in this Act: amount, dividend, FDWP credit, FDWP reference period, pay

Origin: 2004 No 35 s MG 8B(4)