

Subpart ME—Branch equivalent tax accounts

Contents

Introductory provision

ME 1 General rules for companies and other persons with branch equivalent tax accounts

Companies with branch equivalent tax accounts

Introductory provisions

ME 2 Branch equivalent tax accounts of companies

ME 3 Choosing to become BETA company

ME 4 When company stops being BETA company

ME 5 Treatment of attributed CFC income and FIF income in this subpart

Branch equivalent tax credits

Table M7: branch equivalent tax credits

ME 6 BETA payment of income tax on foreign income

ME 7 BETA payment of income tax

ME 8 BETA remaining debit balances

ME 9 BETA refund of FDWP

ME 10 BETA credit for loss of shareholder continuity

ME 11 BETA final balance

Branch equivalent tax debits

Table M8: branch equivalent tax debits

ME 12 BETA payment of FDWP

ME 13 BETA reduction in FDWP

ME 14 BETA refund of income tax

ME 15 BETA debit for loss of shareholder continuity

ME 16 BETA final balance

Persons with branch equivalent tax accounts

Introductory provisions

ME 17 Person choosing to become BETA person

ME 18 When person stops being BETA person

Branch equivalent tax credits

Table M9: person's branch equivalent tax credits

ME 19 BETA person's payment of income tax on foreign income

Branch equivalent tax debits

Table M10: person's branch equivalent tax debits

ME 20 BETA person's payment of income tax

ME 21 BETA person's refund of income tax

ME 22 BETA person's final balance

Introductory provision

ME 1 General rules for companies and other persons with branch equivalent tax accounts

BETA company

- (1) A company resident in New Zealand may choose to be a branch equivalent tax account company. In this Part, the company is called a **BETA company**.

BETA person

- (2) A person resident in New Zealand who is not a company may choose to have a branch equivalent tax account. In this Part, the person is called a **BETA person**.

General rules

- (3) 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 branch equivalent tax account of a BETA company.

References to tax year and income year for person

- (4) Sections MA 2 and MA 3 apply to a BETA person as if references in those sections to a tax year were references to an income year.

Defined in this Act: company, BETA company, BETA person, branch equivalent tax account, income year, memorandum account, resident in New Zealand, tax year

Origin: 2004 No 35 ss MF 1(1), MF 11(1)

Companies with branch equivalent tax accounts

Introductory provisions

ME 2 Branch equivalent tax accounts of companies

Accounts

- (1) A BETA company must maintain a branch equivalent tax account for a tax year. The account is a record of branch equivalent tax credits and branch equivalent tax debits that arise in the account during the tax year.

Credits

- (2) Credits to the account may include a credit for an amount of income tax payable on foreign attributed income.

Debits

- (3) Debits to the account may include a debit for an amount of FDWP paid on a dividend derived from a CFC.

Consolidated groups

- (4) A consolidated group has a branch equivalent tax account if a group company is a BETA company, or if the group chooses to have the account.

Group credits and debits

- (5) Certain credits and debits arise in the branch equivalent tax account of a consolidated group and not in the account of a group company.

Shareholder continuity requirement

- (6) The carrying forward of a credit or a debit in the company's conduit tax relief account is subject to the shareholder continuity requirement in section MA 8 (Shareholder continuity requirements for memorandum accounts).

Defined in this Act: amount, BETA company, branch equivalent tax account, CFC, consolidated group, dividend, FDWP, income tax, pay, tax year

Origin: 2004 No 35 ss MF 1(3), MF 4(1)(a), (3)(a), (5), MF 7(1)(a), MF 9

ME 3 Choosing to become BETA company

Election

- (1) A company may choose to become a BETA company for a tax year—
 - (a) at any time during the tax year; or
 - (b) no later than the day on which the company is required to file a return of income for the tax year; or

- (c) a later time if the Commissioner allows.

Notifying Commissioner

- (2) The company must notify the Commissioner of an election under subsection (1)—
 - (a) no later than 21 days after the date of the election; or
 - (b) by a later time if the Commissioner allows.

Effect of election

- (3) A BETA company must maintain a branch equivalent tax account referred to in section ME 2(1) from the first day of the tax year in which the company makes the election.

Defined in this Act: BETA company, branch equivalent tax account, Commissioner, company, income year, return of income, tax year

Origin: 2004 No 35 s MF 1(1), (2)

ME 4 When company stops being BETA company

Election

- (1) A BETA company may choose to stop being a BETA company only in a tax year that is later than the tax year in which the company chooses under section ME 3 to become a BETA company.

When company's status ends

- (2) The company ends its status as a BETA company from the first day of the tax year in which it makes the election but only if it files an annual imputation return for the year of election in the time allowed by section 71 of the Tax Administration Act 1994.

Defined in this Act: annual imputation return, BETA company, tax year

Origin: 2004 No 35 s MF 1(4), (5)

ME 5 Treatment of attributed CFC income and FIF income in this subpart

This subpart applies to a person with an attributing interest in a FIF by treating—

- (a) FIF income derived from the person's interest as attributed CFC income, if the FIF income is calculated—
 - (i) under the accounting profits method or the branch equivalent method; or
 - (ii) under a method to which section EX 43(6) or EX 46 (which relate to methods to calculate FIF income) applies; and

- (b) the fund as a CFC; and
- (c) the interest as an income interest.

Defined in this Act: accounting profits method, attributed CFC income, attributing interest, branch equivalent method, CFC, FIF, FIF income, income interest

Origin: 2004 No 35 s MF 15

Branch equivalent tax credits

Table M7: branch equivalent tax credits

Row	Branch equivalent tax credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Income tax on foreign income</i>		
	Income tax on foreign income derived in an income year	day the return of income is filed	section ME 6
3	<i>Payment of income tax</i>		
	A debit balance applied to satisfy an income tax liability	day of election	section ME 7
4	<i>Refund of FDWP</i>		
	A refund of FDWP	day of refund	section ME 9
5	<i>Credit for loss of shareholder continuity</i>		
	A credit for loss of shareholder continuity	day of loss of continuity	section ME 10
6	<i>Final balance</i>		
	A debit balance when the company stops being resident in New Zealand	day of cessation	section ME 11

How to use this table

Each row of the table describes—

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

A more detailed description of the branch equivalent tax credits is contained in the section noted in the last column.

ME 6 BETA payment of income tax on foreign income

Credit

- (1) A BETA company has a branch equivalent tax credit as described in table M7: branch equivalent tax credits, row 2 (income tax on foreign income) for an amount calculated using the formula—

$((\text{CFC income for year} - \text{deductions for year}) \times \text{tax rate}) - \text{foreign tax credits} - \text{debit balances}.$

Definitions of items in formula

- (2) In the formula,—
 - (a) **CFC income for year** is the amount of attributed CFC income derived during the income year corresponding to the tax year referred to in subsection (3):
 - (b) **deductions for year** is the total amount in the income year corresponding to the tax year referred to in subsection (3) of—
 - (i) attributed CFC loss; and
 - (ii) attributed CFC net loss; and
 - (iii) FIF loss; and
 - (iv) FIF net loss:
 - (c) **tax rate** is the decimal fraction that is the basic rate of income tax set out in, as applicable,—
 - (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:
 - (d) **foreign tax credits** is the amount of foreign tax credits allowed for the income year corresponding to the tax year referred to in subsection (3) under section LC 4 or LC 5 (which relate to foreign tax credits of CFCs):
 - (e) **debit balances** is the total amount of all debit balances in a branch equivalent tax account applied to satisfy the company's income tax liability for the income year corresponding to the tax year referred to in subsection (3).

Credit date

- (3) The credit date is the day the company files the return of income for the tax year.

Defined in this Act: amount, attributed CFC loss, attributed CFC net loss, basic rate, BETA company, branch equivalent tax account, branch equivalent tax credit, FIF loss, FIF net loss, foreign tax, income tax, income tax liability, income year, Maori authority

Origin: 2004 No 35 s MF 4(1)(a)

ME 7 BETA payment of income tax

When this section applies

- (1) This section applies when—
- (a) a BETA company has a debit balance in its branch equivalent tax account; and
 - (b) the income of the company includes an amount of attributed CFC income; and
 - (c) an amount of FDWP that gives rise to a debit included in the debit balance has been paid—
 - (i) directly; or
 - (ii) by reducing a net loss; or
 - (iii) to reduce an FDWP liability under section NH 7 (Reduction in liability under conduit tax relief).

Group companies

- (2) This section also applies in relation to a BETA company if another company (**company B**) that is part of the same consolidated group has a debit balance in its branch equivalent tax account that arises in the circumstances set out in subsection (1).

Election

- (3) The company or company B may choose to apply some or all of the debit balance under section BC 9 (Satisfaction of income tax liability) to satisfy an income tax liability in relation to the attributed CFC income. The election is made by recording a credit in the branch equivalent tax account with the debit balance.

Credit

- (4) The amount that is applied to satisfy the income tax liability is a branch equivalent tax credit described in table M7: branch equivalent tax credits, row 3 (payment of income tax) in the company's branch equivalent tax account.

Income tax paid

- (5) For the purposes of this section, the income tax liability —
- (a) is calculated by applying the formula in section ME 6(1) on the basis that the item “debit balances” is zero:

- (b) is satisfied to the extent to which the liability is not more than the income tax payable in relation to the amount of the attributed CFC income.

Credit date

- (6) The credit date is the day of election.

Defined in this Act: amount, attributed CFC income, BETA company, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, consolidated group, dividend, FDWP, income, income interest, income tax, income tax liability, income year, net loss, pay, tax year

Origin: 2004 No 35 ss MF 4(1)(c), MF 5(4)–(7)

ME 8 BETA remaining debit balances

When this section applies

- (1) This section applies for the purposes of section ME 7 when an income tax liability of a BETA company is satisfied by applying a debit balance in the company's branch equivalent tax account, or in the account of another company in the same consolidated group, and a debit balance remains after the credit is recorded in the account.

Conversion to net loss

- (2) The residue of the debit balance is converted into a net loss for the purposes of subparts IE, IF, and IG (which relate to the treatment of net losses). The amount of the net loss is calculated using the formula—

$$\frac{\text{balance}}{\text{tax rate.}}$$

Definitions of items in formula

- (3) In the formula,—
- (a) **balance** is the amount of the debit balance remaining in the branch equivalent tax account:
- (b) **tax rate** is the decimal fraction that is the basic rate of income tax set out in, as applicable,—
- (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.

Company's net loss

- (4) The company that has the net loss is the company whose income tax liability is satisfied as described in section MF 7(3).

Defined in this Act: amount, attributed CFC income, basic rate, BETA company, branch equivalent tax account, branch equivalent tax debit, consolidated group, income tax, income tax liability, Maori authority, net loss, pay

Origin: 2004 No 35 ss MF 4(1)(c), MF 5(4)-(7)

ME 9 BETA refund of FDWP

Credit

- (1) A BETA company has a branch equivalent tax credit as described in table M7: branch equivalent tax credits, row 4 (refund of FDWP) for the amount of a refund of FDWP paid to the company. Subsections (2) and (3) override this subsection.

Refund giving rise to debit

- (2) A refund under subsection (1) must be a refund of a payment of FDWP that gave rise to a debit described in table M8: branch equivalent tax debits, row 2 (payment of FDWP).

Reduction

- (3) The amount of the credit under subsection (1) is reduced to the extent to which—
- (a) the payment of FDWP is made before a branch equivalent tax credit arises as described in table M7: branch equivalent tax credits, row 5 (credit for loss of shareholder continuity) in the company's branch equivalent tax account; and
 - (b) the amount of the refund is not more than the amount of the credit for loss of shareholder continuity.

Credit date

- (4) The credit date is the day the refund is made.

Defined in this Act: BETA company, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, FDWP, pay, shareholder

Origin: 2004 No 35 s MF 4(1)(d)

ME 10 BETA credit for loss of shareholder continuity

Credit

- (1) A BETA company has a branch equivalent tax credit as described in table M7: branch equivalent tax credits, row 5 (credit for loss of shareholder continuity) for the amount of a branch equivalent tax account debit retained in the branch equivalent tax account and unused before the date of breach in shareholder continuity.

Credit date

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

Defined in this Act: amount, BETA company, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, shareholder

Origin: 2004 No 35 s MF 4(1)(e), (5), (6)

ME 11 BETA final balance

Credit

- (1) A BETA company has a branch equivalent tax credit as described in table M7: branch equivalent tax credits, row 6 (final balance) for a debit balance in the branch equivalent tax account when the company stops being resident in New Zealand.

Credit date

- (2) The credit date is the day the company stops being a BETA company.

Defined in this Act: BETA company, branch equivalent tax account, branch equivalent tax credit, resident in New Zealand

Origin: 2004 No 35 s MF 4(1)(f)

Branch equivalent tax debits

Table M8: branch equivalent tax debits

Row	Branch equivalent tax debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of FDWP</i>		
	FDWP paid on a dividend derived from a controlled foreign company	day of payment	section ME 12
3	<i>Reduction of FDWP</i>		
	A credit balance applied to satisfy an FDWP liability	due date for the FDWP	section ME 13
4	<i>Refund of income tax</i>		
	A refund of income tax for attributed CFC income	day of refund	section ME 14

5	<i>Debit for loss of shareholder continuity</i>		
	A debit for loss of shareholder continuity	day of loss of continuity	section ME 15
6	<i>Final balance</i>		
	A credit balance when New Zealand residence ceases	day of cessation	section ME 16
<p>How to use this table</p> <p>Each row of the table describes—</p> <p>(a) the branch equivalent tax debits that may arise in the branch equivalent tax account of a branch equivalent tax account company during a tax year; and</p> <p>(b) the debit date when the debit arises.</p> <p>A more detailed description of the branch equivalent tax debits is contained in the section noted in the last column.</p>			

ME 12 BETA payment of FDWP

Debit

- (1) A BETA company has a branch equivalent tax debit as described in table M8: branch equivalent tax debits, row 2 (payment of FDWP) for the amount of a payment of FDWP that—
- (a) is calculated before a reduction of liability under section NH 7 (Reduction in liability under conduit tax relief); and
 - (b) must have been payable in relation to a dividend derived from an income interest in a CFC; and
 - (c) may have been paid to reduce a net loss.

Debit date

- (2) The debit date is the day of payment.

Defined in this Act: amount, BETA company, branch equivalent tax account, CFC, dividend, FDWP, income interest, net loss, pay

Origin: 2004 No 35 s MF 4(3)(a)

ME 13 BETA reduction in FDWP

Election

- (1) A BETA company may choose to use some or all of a credit balance in the company's branch equivalent tax account to reduce an FDWP liability of—
- (a) the company; or
 - (b) another company that is in the same group of companies when the dividend giving rise to the liability is derived.

Debit

- (2) The amount of the reduction is a debit arising in the company's branch equivalent tax account as described in table M8: branch equivalent tax debits, row 3 (reduction of FDWP).

Manner of election

- (3) The company makes the election by recording the amount of the credit balance that is used as a debit in the account.

Debit date

- (4) The debit date is the due date for the payment of FDWP.

Defined in this Act: BETA company, branch equivalent tax account, branch equivalent tax debit, company, dividend, FDWP, group of companies, pay

Origin: 2004 No 35 ss MF 4(3)(b), MF 5(1)

ME 14 BETA refund of income tax

Debit

- (1) A BETA company has a branch equivalent tax debit as described in table M8: branch equivalent tax debits, row 4 (refund of income tax) for the amount of a refund of income tax that is attributable to income tax paid for an income year on attributed CFC income derived during the income year. Subsection (2) overrides this subsection.

Reduction

- (2) The amount of the debit is reduced to the extent to which—
- (a) a debit arises in the company's branch equivalent tax account described in table M8: branch equivalent tax debits, row 5 (debit for loss of shareholder continuity); and
 - (b) the income tax was paid before the debit date for the debit for loss of shareholder continuity.

Debit date

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

Defined in this Act: amount, attributed CFC income, BETA company, branch equivalent tax account, branch equivalent tax debit, income tax, pay, shareholder

Origin: 2004 No 35 s MF 4(3)(c)

ME 15 BETA debit for loss of shareholder continuity

Debit

- (1) A BETA company has a branch equivalent tax debit as described in table M8: branch equivalent tax debits, row 5 (debit for loss of shareholder continuity) for the amount of a branch equivalent tax credit retained in the branch equivalent tax account and unused before the date of breach in shareholder continuity.

Debit date

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

Defined in this Act: amount, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, shareholder

Origin: 2004 No 35 s MF 4(3)(d), (5), (6)

ME 16 BETA final balance

Debit

- (1) A BETA company has a branch equivalent tax debit as described in table M8: branch equivalent tax debits, row 6 (final balance) for a credit balance in the branch equivalent tax account when the company stops being resident in New Zealand.

Debit date

- (2) The debit date is day the company stops being resident in New Zealand.

Defined in this Act: BETA company, branch equivalent tax account, branch equivalent tax debit, resident in New Zealand

Origin: 2004 No 35 s MF 4(3)(e)

Persons with branch equivalent tax accounts

Introductory provisions

ME 17 Person choosing to become BETA person

Election

- (1) A person who is eligible under section ME 1(2) and who chooses to become a BETA person may make the election for an income year—
 - (a) at any time during the income year; or
 - (b) no later than the day on which the person is required to file a return of income for the income year; or
 - (c) by a later time if the Commissioner allows.

Notice

- (2) The person must notify the Commissioner of the election under subsection (1)—
 - (a) no later than 21 days after the election; or
 - (b) by a later time if the Commissioner allows.

Effect of election

- (3) A BETA person must maintain a branch equivalent tax account from the first day of the income year in which the person makes the election.

Defined in this Act: BETA person, branch equivalent tax account, Commissioner, income year, return of income

Origin: 2004 No 35 s MF 11(1), (2)

ME 18 When person stops being BETA person

Election

- (1) A BETA person may choose to stop the branch equivalent tax account.

When election made

- (2) A person may make an election under subsection (1) only in an income year that is later than the income year in which the person chose under section ME 1(2) to become a BETA person.

When person's status ends

- (3) The person ends their status as a BETA person from the first day of the income year after the income year in which the election referred to in subsection (1) is made but

only if they file an annual branch equivalent tax account return for the year of election in the time allowed by section 78(3) of the Tax Administration Act 1994.

Defined in this Act: annual branch equivalent tax account return, BETA person, branch equivalent tax account, income year

Origin: 2004 No 35 s MF 11(4), (5)

Branch equivalent tax credits

Table M9: person’s branch equivalent tax credits

Row	Branch equivalent tax credit	Credit date	Further defined
1	<i>Opening credit balance</i>		
	Opening credit balance	1 April	section MA 7
2	<i>Payment of income tax on foreign income</i>		
	Income tax paid on foreign income derived in an income year	day the return of income for the income year is filed	section ME 19
<p>How to use this table Each row of the table describes—</p> <p>(a) the branch equivalent tax credits that may arise in the branch equivalent tax account of a branch equivalent tax account person during an income year; and</p> <p>(b) the credit date when the credit arises.</p> <p>A more detailed description of the branch equivalent tax credits is contained in the section noted in the last column.</p>			

ME 19 BETA person’s payment of income tax on foreign income

Credit

- (1) A BETA person has a branch equivalent tax credit for an income year as described in table M9: person’s branch equivalent tax credits, row 2 (payment of income tax on foreign income) for an amount calculated using the formula—

$$\text{person's tax liability} \times \frac{(\text{CFC or taxable income})}{(\text{person's taxable income})} - \text{foreign tax credits.}$$

Definitions of items in formula

- (2) In the formula,—
- (a) **person’s tax liability** is the person’s unadjusted income tax liability for the income year:

- (b) **CFC or taxable income** is the lesser of the person’s—
 - (i) attributed CFC income derived during the income year; or
 - (ii) taxable income for the income year:
- (c) **person’s taxable income** is the person’s taxable income for the income year:
- (d) **foreign tax credits** is the foreign tax credits allowed for the income year under section LC 4 or LC 5 (which relate to foreign tax credits of CFCs).

Credit date

- (3) The credit date is the day the person files the return of income for the tax year corresponding to the income year.

Defined in this Act: attributed CFC income, BETA person, branch equivalent tax account, branch equivalent tax credit, foreign tax, income tax, income year, return of income, taxable income, unadjusted income tax liability

Origin: 2004 No 35 s MF 13(1)

Branch equivalent tax debits

Table M10: person’s branch equivalent tax debits

Row	Branch equivalent tax debit	Debit date	Further defined
1	<i>Opening debit balance</i>		
	Opening debit balance	1 April	section MA 7
2	<i>Payment of income tax</i>		
	A credit balance applied to satisfy an income tax liability	day of election	section ME 20
3	<i>Refund of income tax</i>		
	A refund of income tax for attributed CFC income	day of refund	section ME 21
4	<i>Final balance</i>		
	A credit balance when New Zealand residence ends	day of cessation	section ME 22

How to use this table

Each row of the table describes—

- (a) the branch equivalent tax debits that may arise in the branch equivalent tax account of a branch equivalent tax account person during an income year; and
- (b) the debit date when the debit arises.

A more detailed description of the branch equivalent tax debits is contained in the section noted in the last column.

ME 20 BETA person's payment of income tax

Election

- (1) On meeting the requirements set out in subsection (3), a BETA person may choose to use some or all of a credit balance in their branch equivalent tax account to satisfy an income tax liability of the person for an income year.

Debit

- (2) The amount used to satisfy the income tax liability is a branch equivalent tax debit described in table M10: person's branch equivalent tax debits, row 2 (payment of income tax) in the person's branch equivalent tax account.

Requirements

- (3) The person may make an election under subsection (1) if—
 - (a) they derive a dividend from an income interest in a CFC during the income year; and
 - (b) a credit balance exists in their branch equivalent tax account; and
 - (c) they have paid the income tax giving rise to a credit included in the credit balance.

Manner of election

- (4) The person makes the election by recording the amount as a debit in the branch equivalent tax account.

Income tax paid

- (5) Once the election is made, the income tax liability is satisfied to the extent to which the liability is not more than the income tax payable on the amount of the dividend derived.

Debit date

- (6) The debit date is the day of election.

Defined in this Act: amount, BETA person, branch equivalent tax account, branch equivalent tax credit, branch equivalent tax debit, CFC, dividend, income interest, income tax, income tax liability, income year, pay

ME 21 BETA person's refund of income tax

Debit

- (1) A BETA person has a branch equivalent tax debit for an income year as described in table M10: person's branch equivalent tax debits, row 3 (refund of income tax) for the amount of a refund of income tax attributable to income tax paid for the income year on attributed CFC income derived during the income year.

Debit date

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

Defined in this Act: amount, attributed CFC income, BETA person, branch equivalent tax debit, income tax, income year, pay

Origin: 2004 No 35 s MF 13(3)(b)

ME 22 BETA person's final balance

Debit

- (1) A BETA person has a branch equivalent tax debit as described in table M10: person's branch equivalent tax debits, row 4 (final balance) for a credit balance in the branch equivalent tax account when the person stops being resident in New Zealand.

Debit date

- (2) The debit date is the day the person stops being resident in New Zealand.

Defined in this Act: BETA person, branch equivalent tax account, branch equivalent tax debit, resident in New Zealand

Origin: 2004 No 35 s MF 13(3)(c)