

## **Subpart MZ - Terminating provisions**

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### **MZ 1 No imputation credit for pre-imputation tax paid**

No imputation credit arises in the imputation credit account of an ICA company for a payment of income tax imposed for a pre-imputation income year.

Defined in this Act: ICA company, imputation credit, imputation credit account, income tax, pay, pre-imputation income year

Origin: 2004 No 35 s ME 4(1)(viii)

### **MZ 2 No imputation debit for pre-imputation refund**

No imputation debit arises in the imputation credit account of an ICA company for a refund of income tax for a pre-imputation income year.

Defined in this Act: ICA company, imputation credit account, imputation debit, income tax, pre-imputation income year

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

### **MZ 3 Overpaid income tax or FDWP for pre-imputation income year**

#### ***Debit***

- (1) An ICA company has an imputation debit as described in table M2: imputation debits, row 11 (overpayment of income tax or FDWP) for an amount of overpaid income tax and FDWP that is applied, when the company is not an FDWP company, to satisfy the company's income tax liability under section BB 1 (Imposition of income tax) for a pre-imputation income year. Subsection (2) overrides this subsection.

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

- (2) The debit does not include an amount of overpaid income tax and FDWP that is—
  - (a) paid before an imputation debit described in table M2: imputation debits, row 14 (debit for loss of shareholder continuity); and
  - (b) not more than the debit for loss of shareholder continuity.

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

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

Defined in this Act: amount, company, FDWP, FDWP company, ICA company, imputation credit account, imputation debit, income tax, income tax liability, pay, pre-imputation income year, shareholder

Origin: 2004 No 35 s ME 5(1)(n)

#### **MZ 4 Terminating modifications to debits for loss of shareholder continuity**

The terminating modifications that apply under section MA 8(8) (Shareholder continuity requirements for memorandum accounts) are—

- (a) the requirement for shareholder continuity does not apply to a credit that arises on or before 16 December 1988; and
- (b) credits arising after 16 December 1988 and before 1 April 1992 are treated as 1 credit arising on 1 April 1992 and, until such time as the credit can be treated as cancelled by later debits,—
  - (i) the shareholder continuity requirement applying to the credit is the earlier version of the requirement incorporated in section 394E(2)(g) of the Income Tax Act 1976 (despite its repeal and replacement by section 51 of the Income Tax Act Amendment Act (No 2) 1992); and
  - (ii) the earlier version of the requirement in section 394E(2)(g) applies by reading the figure “66” instead of the figure “75”.

Defined in this Act: shareholder

Origin: 2004 No 35 ss ME 5(4), MG 5(4)

#### **MZ 5 ASCA lost excess available subscribed capital**

##### *When this section applies*

- (1) This section applies when a qualifying unit trust or a group investment fund that derives category A income—
  - (a) is in existence between 17 October 2002 and 30 September 2003 (both dates inclusive); and
  - (b) has redeemed a unit in the trust or fund; and
  - (c) the slice rule was used to determine the tax treatment of the proceeds from the redemption; and
  - (d) the amount paid on subscription for a unit is less than the amount paid on redemption.

##### *Calculating opening balance*

- (2) The trust or fund may choose for the period to calculate an opening credit balance using 1 of the methods set out in subsections (3) and (4).

##### *Method 1*

- (3) Method 1 requires the trust or fund to calculate the actual amount of available subscribed capital lost, that is the difference, in total, between the amount paid on subscription for a unit and the amount paid on redemption of the unit.

***Method 2***

- (4) Method 2 requires the trust or fund to make a calculation for the notional winding up of the trust or fund by taking the following steps:
- (a) step 1: determine the total amount of tax that would be payable on liquidation, treating the value of assets and liabilities as determined at their market value at the date of the notional liquidation according to provisions applying at that date;
  - (b) step 2: determine the amount of notional credits that are available after notional tax is paid in relation to them;
  - (c) step 3: determine the amount of notional credits required to fully impute, for each unit holder, the payment of a redemption dividend, and aggregate the amounts, applying the maximum imputation ratio to the total amount;
  - (d) step 4: establish the imputation credit shortfall between the notional credits under step 2 and the credits required under step 3.

***Opening balance***

- (5) The amount of the opening balance is—
- (a) the amount of the difference for method 1; and
  - (b) the shortfall referred to in subsection (4)(d) for method 2.

***Certain causes of shortfalls***

- (6) For the purposes of subsection (4), the structural features of the taxation and imputation systems that would allow a company that does not issue shares on terms subject to section CD 14(4) (Returns of capital: off-market share cancellations) to fully impute a distribution made on the liquidation of the company, include the tax effects of—
- (a) non-taxable gains and losses, including exempt income but excluding a dividend subject to section NH 1 (Liability to make deduction in respect of foreign withholding payment dividend); and
  - (b) imputation credits lost because of a breach in the shareholder continuity requirements; and
  - (c) foreign tax credits; and
  - (d) retained earnings generated before the trust or fund established an imputation credit account.

***Date of notional liquidation, orderly calculations***

- (7) For the purposes of this section,—
- (a) the date of notional liquidation is the date chosen by the trust or fund falling in the period referred to in subsection (1)(a);
  - (b) a calculation under this section must be undertaken in a manner consistent with the preparation of financial statements and unit pricing calculations, based on an orderly realisation of assets in the ordinary course of business and demonstrable market valuations.

Defined in this Act: amount, available subscribed capital, business, category A income, dividend, exempt income, foreign tax, group investment fund, imputation credit, imputation credit account, imputation ratio, liquidation, qualifying unit trust, share, slice rule

Origin: 2004 No 35 s MJ 4

## **MZ 6 ASCA redemption of unused investments**

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

- (1) The section applies when a qualifying trust or a group investment fund that derives category A income—
  - (a) redeems a share within the meaning in paragraphs (c) and (d) of the definition of **share** in section OB 1 (Definitions); and
  - (b) has never established an ASC account.

### ***Election***

- (2) The company may choose to establish an ASC account, and the only ASC account credit arising in the account is an ASC account credit for an opening balance calculated under section MZ 5(5).

### ***Closing balance***

- (3) An opening balance under subsection (2) is treated as the closing balance of the account.

Defined in this Act: ASC account, ASC account company, ASC account credit, category A income, group investment fund, qualifying trust, share

Origin: 2004 No 35 s MJ 7