Section OB 1 for Part N

accident compensation earnings-related	new	
payment		
agent		
agricultural, horticultural, or viticultural	moved from withholding payment regulations	
company		
amalgamated company		
amalgamating company		
amalgamation		
amount	update section references	
amount of tax	new, replaces tax deduction	
annual gross income		
approved issuer		
arrangement		
assessment		
associated person		
attributed repatriation		
Australian imputation credit account		
company		
balance date	new	
base amount	new, NC 8	
basic rates		
basic tax deduction	omit	
beneficiary income		
BETA company	replacement for branch equivalent tax account	
	company	
body	omit, NE 30	
bonus issue in lieu		
branch equivalent tax account		
building society		
business		
casual agricultural employee		
certificate of exemption	update section references	
CFC		
charitable organisation	update section references	
chief executive of the department currently		
responsible for administering the Social		
Security Act 1964		
close company		
close of trading spot exchange rate		
combined tax and earner-related payment	amalgamate existing definitions	
Commissioner		
company		
conduit tax relief additional dividend		
conduit tax relief company		

consolidation rules update section references contract activity or service moved from withholding payment regulations control control update references control frame year construitible credit update references credit transfer notice derived fram New Zealand derived transfer notice derived transfer notice derived transfer notice direct market value interest dividend withholding payment account ontit	consolidated group		
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	FDP rules	NG 1, replaces dividend withholding payment rules	

fee	update section reference, ND 41	
filing taxpayer		
final instalment		
financial arrangement		
financial arrangements rules		
first business day		
first payment period	replaces first PAYE period	
fixed establishment		
foreign company		
foreign dividend	replaces foreign withholding payment dividend, NG 2	
foreign dividend payment account return	replaces dividend withholding payment account	
	return	
foreign dividend payment penalty tax		
foreign withholding payment dividend	omit	
foreign withholding tax	update references	
friendly society		
fringe benefit	update section references	
fringe benefit tax	becomes FBT, ND 25	
fully conduit tax relief credited	omit, move definition to Act	
further dividend withholding payment	omit, becomes further payment for a foreign dividend	
further income tax		
generally accepted accounting practice		
goods		
gross	omit	
gross tax deductions	omit	
group investment fund		
group of companies		
GST		
GST ratio		
ICA company	replaces imputation credit account company	
identical goods	move from ND to OB 1	
imputation credit		
imputation credit account		
imputation credit account company	replaced by ICA company	
imputation return		
income		
income interest		
income statement		
income tax		
income tax liability		
income year		
income-tested benefit		
initial provisional tax liability	replaces new provisional taxpayer	
Inland Revenue Acts		
input tax		
instalment date		
interest		
interest instalment date		
investment society dividend		
investment society dividend		

life insurance		1
life insurance rules		
life insurer		
liquidation		
listed company	update section references	
listed PAYE intermediary	update section references	
living alone payment		
local authority		
major shareholder		
Maori authority		-
Maori authority credit		
Maori authority credit account		
Maori authority credit account return		
market interest	ND 35	
market value		
market value	update section references, ND 27, ND 40 update section references, NE 30	+
		+
money		+
money lent		
monthly remittance certificate	omit, replaced by PAYE payment form	
motor vehicle		
net income		
net loss		
new provisional taxpayer	omit, replaced by initial provisional tax liability	
New Zealand		
New Zealand resident		
New Zealand superannuation		
nominated company		
nominee		
non-cash dividend		
non-concessionary rate of interest		
non-filing taxpayer	update section reference	
non-resident		
non-resident contractor	new	
non-resident entertainer	amalgamate existing and new definitions	
non-resident passive income	NF 2, replaces non-resident withholding income	
notice		
notify		
NRWT	new	1
NRWT rules	NF 1	1
partner	NE 30	1
partnership	NE 30	1
рау	add to para (a) "treated as paid", update section references, include ND 51	
pay period		
PAYE	new	1
PAYE intermediary	update section references	1
PAYE payment	replaces source deduction payment, s ND 3	1
PAYE payment form	replaces remittance certificate, monthly remittance	1
	certificate	

PAYE rules	ND 1	
PCA person	replaces policyholder credit account person	
policyholder base		
policyholder credit account		
policyholder credit account person	omit, replaced by PCA person	
policyholder credit account return	new, compare other return types	
preceding year	omit	
prescribed interest	update section references	
prescribed rate of interest	update section references	
price	move from ND to OB 1	
primary employment earnings	move definition to TAA	
private domestic worker		
private use		
provisional tax		
provisional tax rules	NC 1	
provisional taxpayer	omit	
public authority		
qualifying amalgamation		
qualifying company		
qualifying event		
qualifying unit trust		
quarter		
ratio instalment date		
redemption payment		
reduced deduction	omit	
registered person		
registered security		
related employer	ND 51	
remittance certificate	omit, replaced by PAYE payment form	
remuneration	omit	
replacement payment		
resident in New Zealand		
resident passive income	NE 2, replaces resident withholding income	
resident withholding tax	omit, replaced by RWT	
residual income tax		
return of income		
revenue account property		
royalty		
RWT	new	
RWT proxy	update section reference	
RWT rules	NE 1	
salary or wages	ND 5	
schedular payment subject to final	omit	
withholding		
schedular income	add para	
schedular payment	replaces withholding payment	
schedular tax code	replaces withholding declaration, new definition for TAA	
second payment period	replaces second PAYE period	

self-assessed adverse event		
services		
share		
share-lending arrangement		
share supplier		
share user		
shareholder		
shareholder dividend statement		
shareholder-employee		
shares of the same class		
shearer		
shearing shed hand		
short-term charge facility		
sickness, accident, or death benefit fund		
	amit raplaced by DAVE payment	
source deduction payment	omit, replaced by PAYE payment omit, replaced by new definition: dividend having the	
specified dividend	nature of interest	
specified insurance premium	rewrite in CX 15 and omit definition	
specified superannuation contribution		
withholding tax	omit, replaced by ESCT	
SSCWT rules	amit rankagad by ECCT rules ND 64	
	omit, replaced by ESCT rules, ND 64 update section reference	
subsidised transport		
subsidy claim form	replaces listed PAYE intermediary claim form	
superannuation fund		
superannuation scheme		
supplementary available subscribed capital account	replacement supplementary ASC account	
supplementary dividend		
tax advantage		
tax agent		
tax avoidance		
tax code	update section reference	
tax code certificate	shift definition to TAA	
tax code declaration	omit	
tax deduction	omit	
tax file number	update section reference	
tax pooling account		
tax year		
taxable activity		
taxable bonus issue		
taxable income		
taxable Maori authority distribution		
taxable period	extend by reference to GST Act	
taxable supply		
terminal tax		
this Act		
total taxable supplies	NC 8	
transitional resident		
transitional year	amend to refer to return filed under section 33 for	

	period to which section 39 applies	
trustee		
unclassified benefit		
unit trust		
veteran's pension		
voting interest		
wholly-owned group of companies		
withdrawable share		
withdrawal		
withholding payment	omit, replaced by schedular payment	
working day		
work-related vehicle		
year		

Particular definitions

accident compensation earnings-related payment means a payment included in salary or wages of the following kinds and under the following Acts:

- (a) under the Accident Compensation Act 1982, a payment of earnings related compensation, as defined in section 2, and of compensation under section 80(4), that are not payments of account made under section 88 in circumstances in which, at the time the payments are made, the nature of the compensation has not been determined:
- (b) under the Accident Rehabilitation and Compensation Insurance Act 1992,—
 - (i) a vocational rehabilitation allowance payable under section 25; and
 - (ii) a payment of compensation for loss of earnings payable under any of sections 38, 39, and 43; and
 - (iii) a payment of compensation for loss of potential earning capacity payable under section 45 or 46; and
 - (iv) a payment of weekly compensation payable under any of sections 58, 59, and 60; and
 - (v) a payment of continued compensation payable under section 138:
- (c) under the Accident Insurance Act 1998,—
 - (i) a payment or weekly compensation made by an insurer, as defined in that Act:
 - (ii) a payment of compensation for loss of earnings, or loss of potential earning capacity in relation to a work-related personal injury, as defined in that Act, made by an insurer under a policy of personal accident or sickness insurance to which section 188(1)(a)

(as it read immediately before its repeal by section 7 of the Accident Insurance Amendment Act 2000) applies:

 (d) under the Injury Prevention, Rehabilitation, and Compensation Act 2001, a payment of weekly compensation made by the Corporation, as defined in that Act

agricultural, horticultural, or viticultural company means a company that carries on a business that comprises or includes performing any work or rendering a service set out in schedule 1B, part A, clause 4A (Basic amounts of tax for schedular payments)

amount of tax, for a payment, means an amount of tax that must be withheld and paid, or paid to the Commissioner under the PAYE rules, ESCT rules, RWT rules, or NRWT rules

balance date, for the purposes of section NA 15 and subparts NC and ND (which relate to payments of income tax) means the date of the annual balance of a person's accounts for their income year

contract activity or service, for a non-resident contractor, means-

- (a) performing any work in New Zealand:
- (b) rendering a service of any kind in New Zealand:
- (c) providing the use of, or right to use, in New Zealand, any personal property or services of a person other than the non-resident contractor

contract payment, for a non-resident contractor, means any payment other than—

- (a) a royalty; or
- (b) a payment made to the non-resident contractor by or on behalf of a person who is not associated with the contractor to reimburse costs incurred by the contractor; or
- (c) a payment referred to in schedule 1B, part A, clause 8 or 9 (Basic amounts of tax for schedular payments)

cost, in sections ND 43 and ND 44 (which relate to goods provided with staff discount), for a registered person who may claim input tax for the cost of the goods, means the GST-inclusive cost of the goods to the person

ESCT means an amount payable as income tax under the ESCT rules

FDP means an amount payable for a foreign dividend under the FDP rules

identical goods, for the purposes of the FBT rules, for any goods, means other goods that are the same in terms of physical characteristics, quality, and reputation, except for minor differences in appearance that do not affect the value of the goods

initial provisional tax liability, means-

- (a) for a person who is not a natural person, or a person who is a natural person and a trustee of a trust, a provisional tax liability for a tax year in which the person starts to derive income from a taxable activity, when they did not derive income from a taxable activity in any of the 4 previous tax years; and
- (b) for a person who is a natural person and not a trustee of a trust, a provisional tax liability for a tax year when—
 - (i) they did not have residual income tax of more than \$2,500 in any of the 4 previous tax years; and
 - (ii) they have residual income tax of \$35,000 or more in the tax year; and
 - (iii) in the tax year, they stopped deriving income from employment and then started to derive income from a taxable activity

non-resident contractor, in the PAYE rules, means a person who-

- (a) is not resident in New Zealand under subpart OE (Source of income and residence); and
- (b) undertakes under a contract, agreement, or arrangement (other than a contract of service or apprenticeship)—
 - (i) to perform services of any kind in New Zealand:
 - (ii) to supply the use, or right to use, in New Zealand any personal property or services of another person

non-resident entertainer, in the PAYE rules, means a person who-

- (a) is not resident in New Zealand under subpart OE (Source of income); and
- (b) during a visit to New Zealand, undertakes an activity or performance connected with—
 - (i) a sporting event or competition; or
 - (ii) making speeches or giving lectures or talks for any purpose; or

- (iii) acting, singing, playing music, dancing, or entertaining generally, for any purpose and whether alone or not:
- (c) is not fully or partly sponsored under a cultural programme of an overseas government or the Government of New Zealand:
- (d) is not an official representative of a body that administers a game or sport in an overseas country:
- (e) is not undertaking an activity or performance under a programme of a foundation, trust, or organisation outside New Zealand which exists for the promotion of a cultural activity and is not carried on for individual profit of a member or shareholder:
- (f) if they are an employee, officer, or principal of a company, firm, or other person, includes the company, firm or other person

NRWT means an amount payable as income tax under the NRWT rules

PAYE means an amount payable as income tax under the PAYE rules

price, in sections ND 43 and ND 44 (which relate to goods provided with staff discount), for a registered person who may claim input tax for goods provided to an employee, means the GST-inclusive price

RWT means an amount payable as income tax under the RWT rules

schedular income means income of the following types:

- •••
- (h) non-resident passive income of the kind referred to section NF 2(3) (Non-resident passive income):

tax pooling account means a trust account into which a tax pooling intermediary pays an amount that they receive in their role as intermediary from a person liable to pay provisional tax

To Part O

OB 7 Foreign currencies

When this section applies

(1) This section applies if a person (**payer**) is required under the RWT rules to determine the amount of tax for a payment of resident passive income and pay it to the Commissioner when the resident passive income is in a currency other than New Zealand currency.

Determination in foreign currency

(2) The payer may determine the amount of tax in the foreign currency.

Conversion for purposes of income tax liability

(3) For the purposes of calculating the income tax liability of the person (**payee**) deriving the resident passive income, the amount of tax must be converted into New Zealand currency either at the close of trading spot exchange rate on the day the amount of tax is withheld, or under another exchange rate determined by the Commissioner for the month in which the amount of tax is withheld.

Conversion for purposes of payment

(4) For the purposes of calculating the amount of tax that the payer must pay to the Commissioner, the amount must be converted into New Zealand currency at the close of trading spot exchange rate on the first working day of the month after that in which the amount of tax is withheld.

Australian imputation credit account companies

(5) Despite subsection (4), if the payer is an Australian imputation credit account company and the resident passive income is a dividend, the payer may choose to use the conversion rate applying under section ME 1B (Amount of dividend for imputation rules if paid in Australian currency).

Defined in this Act: amount of tax, Australian imputation credit account company, close of trading spot exchange rate, Commissioner, dividend, income tax liability, pay, resident passive income, RWT rules, working day

Origin: 2004 No 35 ss NF 2(3), NH 2(5)

To Part F

FD 12 General treatment of foreign dividends

When this section applies

(1) This section applies when a company is part of a consolidated group at a time when it receives a foreign dividend for which it is required to make a payment to the Commissioner under section NG 3 (Obligation to make payments for foreign dividends).

Joint and several liability

(2) All companies in the group at the time of the payment of the foreign dividend are jointly and severally liable for the payment, and the Commissioner must make an assessment under section 102 of the Tax Administration Act 1994 to reflect the joint and several liability.

Tax credits

(3) For the purposes of sections FD 13 to FD 18, section LD 8(4) (Credit of tax for dividend withholding payment credit in hands of shareholder) applies to a company that is part of a consolidated group.

Defined in this Act: assessment, Commissioner, company, consolidated group, foreign dividend, pay

Origin: 2004 No 35 s NH 5(3), (9)

FD 13 Reduction in payments for foreign dividends

When this section applies

(1) This section applies at a time when a company that is part of a consolidated group that maintains a branch equivalent tax account under section MF 7 (Branch equivalent tax accounts and consolidated groups) receives a foreign dividend under section NG 5(3) (Credit balance in branch equivalent tax account) in relation to an income interest in a CFC for which it is liable to make a payment to the Commissioner.

Reduction in payment

(2) If the nominated company of the group chooses under section MG 10(1) (Use of consolidated group credit to reduce dividend withholding payment, or use of group of individual debit to satisfy income tax liability), the payment is reduced by a credit balance in the group's branch equivalent tax account at the time the dividend is paid.

Whether sufficient interest

(3) In determining whether a person has a sufficient interest in a company at the time, a consolidated group is treated as if it were a single company.

Relationship with subpart NG

(4) This section overrides section NG 5(2).

Defined in this Act: branch equivalent tax account, CFC, Commissioner, company, consolidated group, foreign dividend, income interest, nominated company, pay

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

FD 14 Using net losses to make payments

When this section applies

- (1) This section applies when—
 - (a) a company is liable to make a payment to the Commissioner for a foreign dividend paid to it; and
 - (b) the company is part of a consolidated group at the time of the payment; and
 - (c) either—
 - (i) the group has a net loss that may be carried forward and used under sections IE 1, IF 1, and IG 6 (which relate to the treatment of net losses) to reduce the net income of the group for the income year in which the foreign dividend is paid to the company; or
 - (ii) the group's nominated company has a reasonable expectation that, for the income year in which the foreign dividend is paid to the company, the group will have a net loss that may be carried forward and used under sections IE 1, IF 1, and IG 6 to reduce the net income of the company for the next income year.

Maximum reduction

(2) The nominated company may notify the Commissioner within the time for payment to the Commissioner set out in section NA 15(3)(c) (Payment dates for interim and other tax payments) that it chooses to use the net loss, so far as it extends, to pay some or all of the payment. The maximum reduction is calculated using the formula—

payment rate.

Definition of items in formula

- (3) In the formula,—
 - (a) **payment** is the amount determined under section NG 4 (Calculating amount of payments for foreign dividends):
 - (b) **rate** is the percentage that is the rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and ESCT), applying for the tax year in which the dividend is paid.

Relationship with subpart NG

(4) For the purposes of this section, section NG 6(6) (Using net losses) applies modified as necessary.

Defined in this Act: amount, Commissioner, company, consolidated group, foreign dividend, income year, net income, net loss, nominated company, pay

Origin: 2004 No 35 s NH 5(4)

FD 15 Refunds of payments for foreign dividends

When this section applies

(1) This section applies when a company becomes entitled in a tax year to a refund of a payment paid by it to the Commissioner in an earlier tax year in relation to a foreign dividend received when the company was part of a consolidated group.

Maximum amount of refund

- (2) The refund must not be more than the amount set out in the following paragraphs, as applicable:
 - (a) if the group has an FDP account at the time the entitlement arises, a credit balance in the group's FDP account at the end of the tax year that is just before the tax year in which the entitlement arises; or
 - (b) if the group does not have an FDP account at the time the entitlement arises, a credit balance in the group's imputation credit account at the end of the tax year that is just before the tax year in which the entitlement arises.

Treatment of excess

(3) If subsection (2) does not apply to some or all of the payment because it is more than the applicable credit balance, the amount in excess is credited to a payment for a foreign dividend that is payable by the company for a tax year in which it is part of the group.

Earlier refunds of payments

(4) The credit balance referred to in subsection (3) is treated as reduced by an earlier refund of a payment for a foreign dividend that is made in the tax year to the

company, or to another company that is part of the same group at the time the dividend is paid or for the income year in which the refund is made.

Refunds of income tax

(5) Subsection (4) also applies in relation to a refund of income tax that is, under section MD 2 (Limit on refunds and allocations of tax) not more than the credit balance described in subsection (2).

Relationship with subpart NM

(6) This section overrides section NM 18 (Limits on refunds related to foreign dividends). However, section NM 18 does not limit a refund of a payment for a foreign dividend to a company that is part of a consolidated group at the time the dividend is paid to the extent to which this section would not have limited the refund.

Defined in this Act: amount, Commissioner, company, consolidated group, FDP account, foreign dividend, imputation credit account, income year, pay, tax year

Origin: 2004 No 35 s NH 5(5), (6), (8)

FD 16 Refund when consolidated group has net loss

When this section applies

- (1) This section applies when—
 - (a) a company has paid to the Commissioner in an income year a payment for a foreign dividend and, at the time the dividend was paid, the company was part of a consolidated group; and
 - (b) the group has a net loss for the income year that may be carried forward under sections IE 1, IF 1, and IG 6 (which relate to the treatment of net losses) and used to reduce the net income of the group for a later income year; and
 - (c) the group has filed a single return of income under section HB 1 (Returns, assessment, and liability of consolidated group).

Applying for refund

- (2) The company may apply to the Commissioner for a refund of the payment. The maximum refund is the smallest of the following amounts:
 - (a) the amount of the payment paid in the income year:
 - (b) the amount of the net loss referred to in subsection (1)(b) multiplied by the rate set out in subsection (4)(b):
 - (c) the credit balance of the group's FDP account at the end of the tax year just ended.

Net loss reduced

(3) The amount of the net loss is reduced by an amount calculated using the formula—

amount of refund rate.

Definition of items in formula

- (4) In the formula,—
 - (a) **amount of refund** is the amount of the refund paid to the company:
 - (b) **rate** is the percentage 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 ESCT) applying for the income year corresponding to the tax year.

Relationship with subpart NM

(6) This section overrides section NM 21 (Refunds when net losses used to reduce net income).

Defined in this Act: amount, Commissioner, company, consolidated group, foreign dividend, income tax liability, income year, net loss, pay, return of income

Origin: 2004 No 35 s NH 5(7)

FD 17 Treatment of credit balance in consolidated group's FDP account

When this section applies

(1) This section applies when a consolidated group has a credit balance in its FDP account at the end of a tax year.

Credit and debit

- (2) The nominated company of the group may choose that some or all of the credit balance becomes—
 - (a) a credit in the imputation credit account of the group, or of the imputation group to which the group companies belong; and
 - (b) a debit in the FDP account of the group.

How election made

(3) The company makes the election by recording the debit in the group's FDP account.

Defined in this Act: consolidated group, FDP account, imputation credit account, nominated company, tax year

Origin: 2004 No 35 s NH 6(6)

FD 18 Application of certain provisions to consolidated groups

Section MG 6: FDP credits

(1) Section MG 6 (Company may attach dividend withholding payment credit to dividend) applies in relation to a consolidated group as if the reference to an FDP account company includes a reference to a company if, at the time a foreign dividend is paid to it, the company is part of a consolidated group and the group maintains an FDP account.

When subsections (3) and (4) apply

(2) Subsections (3) and (4) apply when a consolidated group has a policyholder credit account and an FDP account.

Credit and debit balances

(3) The nominated company for the group may choose to have some or all of a credit balance in the FDP account credited to its policyholder credit account by recording the credit and corresponding debit in its accounts.

Section MG 7: life insurance credit balance

- (4) Section MG 7(3) and (4) (Transfer by life insurance company of credit balance to policyholder credit account) applies in relation to a consolidated group, modified as necessary, as if—
 - (a) a reference to a company were a reference to the group:
 - (b) a reference to a provision of this Act applying to a company were a reference to the equivalent of sections FD 12 to FD 17, and MG 13 to MG 16 applying to a consolidated group.

Sections MG 9, MG 12, and others: liability for payments and penalties

- (5) Sections MG 9 (Further dividend withholding payment payable by company) and MG 12 (Determinations by Commissioner as to credits and debits arising to dividend withholding payment credit account), and sections 103, 104, 139B, 140C, 140D, and 181 of the Tax Administration Act 1994 apply, modified as necessary in relation to a consolidated group and its FDP account as if—
 - (a) the group were a single company:
 - (b) a reference to a provision of this Act were a reference to the equivalent provision applying to a consolidated group:
 - (c) a reference to a liability of a company for a further payment for a foreign dividend, a foreign dividend penalty tax, and a late payment penalty were a reference to the joint and several liability for the payment, tax, or penalty of each company that is part of the group at the time the payment, tax or penalty becomes payable.

Section NA 19: amalgamations

(6) Section NA 19 (Refunds of excess amounts or when amounts mistakenly paid) applies, modified as necessary, from the time of amalgamation when a

consolidated group ends its existence on a qualifying amalgamation that involves all members of the consolidated group, whether or not with a company outside the group, in relation to tax paid by the consolidated group as if it and the amalgamated company were a single company.

Sections 30 and 68 of Tax Administration Act 1994: FDP accounts

(7) Sections 30 and 68 of the Tax Administration Act 1994 apply, modified as necessary, in relation to a consolidated group as if a reference to an FDP account company were a reference to a company that is part of a consolidated group that maintains an FDP account.

Defined in this Act: amalgamation, company, consolidated group, FDP account, foreign dividend, foreign dividend penalty tax, pay, policyholder credit account, qualifying amalgamation

Origin: 2004 No 35 s NH 6(1), (2), (5), (7)

Schedule 1B Basic amounts of tax for schedular payments

(Reproduce Part A, Part B, Part D, and Part E of the schedule to the Income Tax (Withholding Payments) Regulations 1979

Rename schedules

- 1 Basic rates of income tax and ESCT
- 1B Basic amounts of tax for schedular payments
- 14 Basic amounts of tax for resident passive income
- 19 Basic amounts of tax for PAYE payments