

Subpart NM—Refunds

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Introductory provision

NM 1 What this subpart does

This subpart establishes and measures a person's entitlement to a refund for an overpayment under this Part or another Part of this Act, how the amount of the refund may be used, and the limits placed on the amount and use of a refund for—

- (a) an ICA company:
- (b) a company receiving a foreign dividend:
- (c) a Maori authority:
- (d) a PCA person:
- (e) a qualifying company:
- (f) certain unit trusts and group investment funds.

Defined in this Act: amount, company, foreign dividend, group investment fund, ICA company, Maori authority, PCA person, qualifying company, unit trust

Origin: new

Refunds for overpaid amounts

NM 2 Refunds for overpaid tax

Amount more than required

- (1) The Commissioner must refund an amount of tax that a person has paid if—
 - (a) the amount is more than the tax required to be paid by the person under this Part; and
 - (b) the 4-year period for amendment of an assessment under section 108 of the Tax Administration Act 1994 has not ended.

Refunds arising from mistakes

- (2) Section NM 6 overrides subsection (1).

Defined in this Act: amount of tax, assessment, Commissioner, pay

Origin: 2004 No 35 s MD 1(1)

NM 3 Refunds for overpaid payments for foreign dividends

If a company pays to the Commissioner a payment for a foreign dividend paid to it, and the amount is more than the amount required to be paid under this Part, the Commissioner must refund the overpayment.

Defined in this Act: amount, Commissioner, company, foreign dividend, pay

Origin: 2004 No 35 s NH 4(1)

NM 4 Overpayment on amended assessment

Assessment increasing tax

- (1) The Commissioner must refund an amount of tax that a person has paid if—
 - (a) the person paid the amount as a result of an amendment to an assessment increasing the amount of tax payable by the person; and
 - (b) the amount is more than the amount required to be paid by the person under this Part; and
 - (c) the 4-year period under section 108 of the Tax Administration Act 1994 beginning at the end of the income year in which the assessment was amended has not ended.

Refunds arising from mistakes

- (2) Section NM 6 overrides subsection (1).

Defined in this Act: amount of tax, assessment, Commissioner, income year, pay

Origin: 2004 No 35 s MD 1(2)

NM 5 Overpayment on income statements

When this section applies

- (1) This section applies when an income statement has been provided to a person and the result is that an amount of tax must be refunded to the person. For the purposes of this section, the amount of tax must be more than \$50.

Refund on confirmation of correctness

- (2) The Commissioner may refund the amount of tax only after the person has confirmed that the income statement is correct.

Threshold amount

- (3) The Governor-General may make an Order in Council increasing the amount set out in subsection (1).

Defined in this Act: amount of tax, Commissioner, income statement

Origin: 2004 No 35 s MD 1(1A)

NM 6 Refunds after 4-year period ends

When this section applies

- (1) This section applies when a person has overpaid an amount of tax or payment for a foreign dividend, and the 4-year period referred to in sections NM 2(1)(b) and NM 4(1)(c) has ended.

Refund

- (2) The Commissioner may refund the amount or payment if the refund—
- (a) arises as described in subsection (3); and
 - (b) is made in the way described in subsection (4).

Cause of refund

- (3) The refund must arise from—
- (a) a clear mistake by or simple oversight of the person; or
 - (b) the person's entitlement to a credit of tax under subpart KD (Tax credits for family support and family plus).

When refund made

- (4) The refund must be made—
- (a) within a period of 4 years that starts at the end of the 4-year period referred to in sections NM 2(1)(b) and NM 4(1)(c); and
 - (b) on an application—
 - (i) made by the person or on their behalf; and
 - (ii) received by the Commissioner within the further period of 4 years described in paragraph (a).

Defined in this Act: amount of tax, Commissioner, credit of tax, pay

Origin: 2004 No 35 ss MD 1(2B), NH 3(7)

NM 7 Refunds to PAYE intermediaries

When this section applies

- (1) This section applies when a PAYE intermediary pays to the Commissioner an amount of tax for a PAYE payment for an employer—
 - (a) relying on a payment made to the trust account of the intermediary—
 - (i) by the employer and later dishonoured; or
 - (ii) mistakenly by a person and later recovered from the intermediary:
 - (b) mistakenly from funds not provided by the employer for a purpose related to the PAYE payment.

Refund to intermediary

- (2) The Commissioner must refund the amount of tax to the intermediary.

Defined in this Act: amount of tax, Commissioner, employer, pay, PAYE intermediary, PAYE payment

Origin: 2004 No 35 s NBA 7

NM 8 Overpaid tax for resident passive income or non-resident passive income

When this section applies

- (1) This section applies when a person is required to withhold and pay to the Commissioner an amount of tax for resident passive income or non-resident passive income, and the amount is more than the amount required to be paid under this Part.

Refund to person deriving payment or person withholding amount

- (2) The Commissioner must refund the amount of the overpayment to—
 - (a) the person who derives the payment from which the amount of tax was withheld; or
 - (b) the person who withheld the amount if they have paid the amount of the overpayment to the person deriving the payment and not subtracted the amount under section NA 12(5) and (6) (Adjustment to correct errors: certain excess amounts).

Defined in this Act: amount of tax, Commissioner, non-resident passive income, pay, resident passive income

Origin: 2004 No 35 ss NF 7(1), (2), (5), NG 16

NM 9 Calculations for attributed and non-attributed fringe benefits

When this section applies

- (1) This section applies when an employer chooses to pay FBT under sections ND 48 to ND 54 (which relate to attributed fringe benefits and non-attributed fringe benefits).

Result of calculations

- (2) If the result of the calculations of FBT on attributed fringe benefits or non-attributed fringe benefits is negative, the Commissioner must refund to the employer an amount equal to the deficiency.

Defined in this Act: amount, Commissioner, employer, FBT

Origin: 2004 No 35 s ND 10(4)(a)

Use of refunds

NM 10 Using refund to satisfy tax liability

When this section applies

- (1) This section applies when a person is entitled to a refund of an amount of tax under sections NM 2 and NM 4 to NM 6.

Request for particular application

- (2) The person may ask under section 173T of the Tax Administration Act 1994 for the Commissioner to apply some or all of the amount on a particular date to satisfy a liability under the Inland Revenue Acts.

Commissioner applying refund

- (3) If no request is made under subsection (2), the Commissioner may apply the amount of the refund to satisfy a liability that the person has under the Inland Revenue Acts.

Defined in this Act: amount of tax, Commissioner, Inland Revenue Acts

Origin: 2004 No 35 s MD 1(3), (3A)

NM 11 Using GST refund to pay instalment of provisional tax

When this section applies

- (1) This section applies when a person who is liable to pay provisional tax has a GST refund in a taxable period as a result of the application of section 20(5) of the Goods and Services Tax Act 1985.

Using amount

- (2) The person may choose to use the amount of the refund to pay some or all of an instalment of provisional tax that is payable on the same instalment date.

Reduction in amount

- (3) If the Commissioner amends the assessment reducing the amount of the refund, the person's payment of provisional tax arising from the GST refund is the reassessed amount.

Defined in this Act: amount, assessment, Commissioner, GST, instalment date, provisional tax, taxable period

Origin: 2004 No 35 s MB 11

NM 12 Reduction in provisional tax liability

When this section applies

- (1) This section applies when the amount of provisional tax payable for a tax year is reduced by the person liable to pay the provisional tax, or by the Commissioner under section 119(2) of the Tax Administration Act 1994.

Reduction in amount of provisional tax payable

- (2) If the person applies in writing for a refund of the amount of provisional tax already paid that is as a result of the reduction more than the amount that would have been payable in relation to earlier instalment dates for the tax year, the Commissioner must—
 - (a) apply the overpayment as the person asks under section 173T of the Tax Administration Act 1994 or, if no request is made, in a way that the Commissioner determines in payment of tax or another amount that is payable by them; and
 - (b) refund any balance of the overpayment.

Reduction in assessment

- (3) If the person's residual income tax for the relevant tax year is not more than \$2,500, and they apply in writing for the refund of an amount of provisional tax that has been determined under section NC 9 (Provisional tax payable in instalments) and already paid, other than on a final instalment, the Commissioner must—
- (a) apply the amount as the person asks under section 173T of the Tax Administration Act 1994 or, if no request is made, in a way the Commissioner determines in payment of tax or another amount that is payable by them; and
 - (b) refund any balance of the amount.

Treatment of amount refunded or credited

- (4) When an overpayment or amount of provisional tax for a tax year has been applied or refunded under subsection (2) or (3)—
- (a) a later instalment payable under section NC 10 or NC 11 (which relate to the methods used to calculate the amount of an instalment), as applicable, is calculated as if the total instalments previously payable were reduced by the amount of the overpayment or amount; and
 - (b) the overpayment or amount applied or refunded is, from the date of action taken by the Commissioner, treated as not being provisional tax paid for the tax year.

Defined in this Act: amount, Commissioner, instalment date, pay, provisional tax, residual income tax, tax, tax year

Origin: 2004 No 35 s MB 36

Limits on refunds and transfers

ICA companies

NM 13 Limits on refunds for ICA companies

When this section applies

- (1) This section applies when an ICA company is entitled to—
- (a) a refund of income tax under sections NM 2 and NM 4 to NM 6; or
 - (b) transfer an amount under section NC 32 (Wholly-owned groups of companies).

Amount of refund or transfer limited

- (2) The amount of the refund or transfer must not be more than the credit balance of the ICA company in the imputation credit account at the latest of the following dates:
- (a) the last day of the tax year that has just ended;
 - (b) the last day of a period for which the company filed an imputation return under section 70(3) of the Tax Administration Act 1994;
 - (c) the last day of a period for which the company is required to file a return under section 70(1) of that Act.

Time for filing returns

- (3) Subsection (2) does not apply if the ICA company has an extension of time to file its imputation return for a tax year. The total amount refunded or transferred must not be more than the credit balance of the ICA company in its imputation credit account on the last day of the tax year to which the imputation return relates.

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

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

NM 14 Limits on refunds when company stops being ICA company

When this section applies

- (1) This section applies when a company stops being an ICA company and is entitled to have a refund or to make a transfer under section NM 13(1) for a tax year in which it was an ICA company.

Limit on amount of refund or transfer

- (2) The total amount refunded or transferred must not be more than the final balance of the imputation credit account arising as a debit under section ME 5(1)(k) (Debits arising to imputation credit account) just before the company stopped being an ICA company.

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

Origin: 2004 No 35 s MD 2(2)

NM 15 Changes in credit balances

Credit balance reduced

- (1) A credit balance is treated as reduced by the amount of a refund or transfer as described in sections NM 13 and NM 14 that is made earlier in the same tax year.

Credit balance increased

- (2) A credit balance is treated as increased by an amount equal to a debit to the company's imputation credit account under section ME 5(1)(i) (Debits arising to imputation credit account) arising after the date of payment of the date of instalment B set out in schedule 13, part A (Dates for payment of provisional tax and terminal tax), for the company's income year that corresponds to the tax year and before the date on which the credit balance is to be determined under sections NM 13 and NM 14.

Defined in this Act: amount, corresponding income year, imputation credit account, pay, tax year

Origin: 2004 No 35 s MD 2(3), (4)

NM 16 Treatment of amounts not refunded

When this section applies

- (1) This section applies when, through the application of sections NM 13 and NM 14, an overpayment of income tax by a company is not refunded to the company or transferred within a wholly-owned group of companies.

Satisfying liabilities or retained

- (2) The amount prevented from being a refund or transfer is—
- (a) applied to satisfy an income tax or provisional tax liability of the company for the tax year of the entitlement; and
 - (b) retained by the Commissioner to the extent to which paragraph (a) does not apply, whether because the company is liquidated or for another reason.

Credit for provisional tax

- (3) Despite subsection (2), the amount may be credited on a provisional tax instalment date if residual income tax is treated under section 120K of the Tax Administration Act 1994 as payable on the date set out in Part 7 of that Act.

Defined in this Act: amount, Commissioner, company, income tax, income tax liability, instalment date, liquidation, pay, provisional tax, wholly-owned group of companies

Origin: 2004 No 35 s MD 2(5), (5A)

NM 17 Treatment of further income tax paid

When this section applies

- (1) This section applies for the purposes of sections NM 2 and NM 4 to NM 6 when a company pays further income tax under section ME 9 (Further tax payable where

end of year debit balance, or when company ceases to be imputation credit account company).

No refund

- (2) The company is not entitled to a refund of the amount of further income tax paid which is treated as tax paid to satisfy an obligation yet to arise.

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

Origin: 2004 No 35 s MD 2(6)

Companies receiving foreign dividends

NM 18 Limits on refunds related to foreign dividends

Maximum refund

- (1) Despite section NM 3, if the overpayment described in that section relates to an earlier tax year, the refund must not be more than the relevant credit balance as follows:
- (a) for a FDP company, the credit balance of the company's FDP account at the end of the tax year that is just before the tax year in which the entitlement to the refund arises:
 - (b) for an ICA company that is not an FDP company, the credit balance of the company's imputation credit account at the end of the tax year that is just before that in which the entitlement to the refund arises:
 - (c) for a company described in paragraph (a) or (b) that ends its residence in New Zealand, the credit balance, immediately before the company became no longer resident, of—
 - (i) the company's FDP account arising as a debit under section MG 5(1)(j) (Debits arising to dividend withholding payment account);
or
 - (ii) the company's imputation credit account arising as a debit under section ME 5(1)(k) (Debits arising to imputation credit account).

Treatment of amount not refunded

- (2) If the amount of a company's overpayment is not refunded because it is more than the maximum allowed under subsection (1), the amount may still be used to reduce a payment for a foreign dividend paid to the company.

Reductions in credit balances

- (3) For the purposes of this section, a credit balance referred to in subsection (1) is treated as reduced by an earlier refund under this section paid to the company in

the tax year in which the entitlement to the refund arises. The refund of income tax under sections NM 13 to NM 17 in the same tax year must not be more than the relevant credit balance.

Defined in this Act: amount, company, FDP account, FDP company, foreign dividend, ICA company, imputation credit account, pay, tax year

Origin: 2004 No 35 s NH 4(2), (3)

NM 19 Treatment of financial arrangements

When this section applies

- (1) This section applies when a company is entitled to a refund of a payment for a foreign dividend under section CD 39(10) to (13) (Outstanding balances of financial arrangements).

Credit balance increased

- (2) The amount of the company's credit balance under section NM 18(1) is treated as increased by the amount of a debit in the company's FDP account or imputation credit account arising under section ME 5(1)(i) or MG 5(1)(i) (which relate to certain debits), as applicable, after the date on which the payment was made and before the date on which the credit balance is determined under section NM 18(1).

Defined in this Act: amount, company, FDP account, foreign dividend, imputation credit account, pay

Origin: 2004 No 35 s NH 4(4)(a)

NM 20 Treatment of amounts not refunded

When this section applies

- (1) This section applies when, through the application of section NM 18(1), an overpayment is not refunded.

Satisfying liabilities or retained

- (2) The amount prevented from being a refund is—
 - (a) applied to satisfy an income tax or provisional tax liability of the company for the tax year of an entitlement to a refund or a payment for a foreign dividend that is payable after the date on which the entitlement to the refund arises; and
 - (b) retained by the Commissioner to the extent to which paragraph (a) does not apply, whether because the company is liquidated or for another reason.

Credit for provisional tax

- (3) Despite subsection (2), the amount may be credited on a provisional tax instalment date if residual income tax is treated under section 120K of the Tax Administration Act 1994 as payable on the date set out in Part 7 of that Act.

Defined in this Act: amount, Commissioner, company, foreign dividend, income tax liability, instalment date, liquidation, pay, provisional tax, residual income tax, tax year

Origin: 2004 No 35 s NH 4(4)(b)

NM 21 Refunds when net losses used to reduce net income

When subsection (3) applies

- (1) Subsection (2) applies when a company that is liable to pay to the Commissioner a payment for a foreign dividend has a net loss that may be carried forward and used under sections IE 1 and IF 1 (which relate to the treatment of net losses) to reduce its net income for the income year in which the foreign dividend is paid.

Refund

- (2) The company is entitled to a refund of an amount equal to the least of the following, as applicable:
- (a) the amount of the payment for the foreign dividend that the company pays in the income year in which the foreign dividend is paid; or
 - (b) the amount of the net loss multiplied by the basic rate of income tax for companies set out in schedule 1, part A, clause 5 (Basic rates of income tax and ESCT) for the income year in which the foreign dividend is paid; or
 - (c) the credit balance of the company's FDP account at the end of the tax year that has just ended.

Group company's net loss

- (3) This section also applies, treating the group of companies as the company, when—
- (a) a company (**group company A**) pays to the Commissioner a payment for a foreign dividend; and
 - (b) another company (**group company B**) that is part of the same group of companies as group company A, has a net loss for the income year in which the foreign dividend is paid or an earlier income year that may be used under sections IE 1, IF 1, and IG 2 to reduce the net income of group company A; and
 - (c) group company B makes the net loss available so that group company A is able to get a refund of some or all of the payment.

Application and return requirements

- (4) For this section to apply,—
- (a) the company must apply to the Commissioner in writing; and
 - (b) the company must meet the return requirements set out in section 71B of the Tax Administration Act 1994 for the income year in which the dividend is paid; and
 - (c) if group company B's net loss is used, group company B must make an election to use the net loss in writing.

Reduction in net loss

- (5) When a refund is paid under this section, the amount of net loss is reduced by an amount calculated using the formula—

$$\frac{\text{refund}}{\text{rate.}}$$

Definition of items in formula

- (6) In the formula,—
- (a) **refund** is the amount of the refund paid to company A or group company A, as applicable, under this section:
 - (b) **rate** is the decimal fraction that is the rate of income tax for companies set out in schedule 1, part A, clause 5, applying for the income year that corresponds to the tax year referred to in subsection (3)(c).

Late payment penalties

- (7) Company A or group company A, as applicable, is entitled to a refund of a late payment penalty imposed under section 139B of the Tax Administration Act 1994 in relation to the failure to pay the amount that is refunded.

Defined in this Act: amount, Commissioner, company, corresponding income year, foreign dividend, group of companies, income tax, income year, net income, net loss, pay, tax year

Origin: 2004 No 35 s NH 4(5), (6)

Maori authorities

NM 22 Limits on refunds for Maori authorities

When this section applies

- (1) This section applies when a Maori authority is entitled to a refund of income tax under sections NM 2 and NM 4 to NM 6.

Amount of refund limited

- (2) The amount of the refund must not be more than the credit balance of the Maori authority in the Maori authority credit account at the latest of the following dates:
- (a) the last day of the tax year that has just ended:
 - (b) the last day of a period for which the Maori authority files a Maori authority credit account return under section 70B(3) of the Tax Administration Act 1994:
 - (c) the last day of a period for which the Maori authority is required to file a return under section 70B(1) of that Act.

Time for filing returns

- (3) Subsection (2) does not apply if the Maori authority has an extension of time to file its Maori authority credit account return for a tax year. The total amount refunded must not be more than the credit balance of the Maori authority in its Maori authority credit account on the last day of the tax year to which the return relates.

Defined in this Act: amount, income tax, Maori authority, Maori authority credit account, Maori authority credit account return, tax year

Origin: 2004 No 35 s MD 2B(1), (1B)

NM 23 Limits on refunds when Maori authority no longer exists

When this section applies

- (1) This section applies when a Maori authority ends its existence and is entitled to a refund under sections NM 2 or NM 4 to NM 6 for a tax year in which it maintained a Maori authority credit account.

Limit on amount of refund

- (2) The amount refunded must not be more than the final balance of the Maori authority credit account arising as a debit under section MK 5(1)(i) (Debits arising to Maori authority credit account) just before the Maori authority ended its existence.

Defined in this Act: amount, Maori authority, Maori authority credit account, tax year

Origin: 2004 No 35 s MD 2B(2)

NM 24 Increase in credit balances

A credit balance is treated as increased by an amount equal to a debit to the Maori authority credit account under section MK 5(1)(f) (Debits arising to Maori authority credit account) arising after the date of payment of the date of instalment B set out in schedule 13, part A (Dates for payment of provisional tax and terminal tax), for the authority's income year that corresponds to the tax year and before the date on which the credit balance is to be determined under sections NM 22 and NM 23.

Defined in this Act: amount, corresponding income year, Maori authority credit account, pay, tax year

Origin: 2004 No 35 s MD 2B(3)

NM 25 Treatment of amounts not refunded

When this section applies

- (1) This section applies when, through the application of sections NM 22 and NM 23, an overpayment of income tax by a Maori authority is not refunded to the authority.

Satisfying liabilities or retained

- (2) The amount prevented from being a refund is—
 - (a) applied to satisfy an income tax or provisional tax liability of the Maori authority for the tax year of the entitlement; and
 - (b) retained by the Commissioner to the extent to which paragraph (a) does not apply.

Credit for provisional tax

- (3) Despite subsection (2), the amount may be credited on a provisional tax instalment date if residual income tax is treated under section 120K of the Tax Administration Act 1994 as payable on the date set out in Part 7 of that Act.

Defined in this Act: amount, income tax, income tax liability, instalment date, Maori authority, pay, provisional tax, residual income tax

Origin: 2004 No 35 s MD 2B(4), (4B)

NM 26 Treatment of further income tax paid

When this section applies

- (1) This section applies for the purposes of sections NM 2 and NM 4 to NM 6 when a Maori authority pays further income tax under section MK 8 (Further tax payable for end of year debit balance or when Maori Authority ceases to exist).

No refund

- (2) The authority is not entitled to a refund of the amount of further income tax paid which is treated as tax paid to satisfy an obligation yet to arise.

Defined in this Act: amount, further income tax, Maori authority, pay

Origin: 2004 No 35 s MD 2B(5)

NM 27 Application when no credits arise

Sections NM 22 to NM 26 do not apply in relation to an amount of tax paid for which no credit arises under section MK 4(1)(a) (Credits arising to Maori authority credit account).

Defined in this Act: amount, pay

Origin: 2004 No 35 s MD 2B(6)

Persons with policyholder credit accounts

NM 28 Limits on refunds for PCA persons

When this section applies

- (1) This section applies when a PCA person is entitled to a refund of income tax under sections NM 2 and NM 4 to NM 6.

Amount of refund limited

- (2) The amount of the refund must not be more than the credit balance of the PCA person in the policyholder credit account at the latest of the following dates:
 - (a) the last day of the tax year that has just ended;
 - (b) the last day of a period for which the person files a policyholder credit account return under section 66(5) of the Tax Administration Act 1994;
 - (c) the last day of a period for which the person is required to file a return under section 66(4) of that Act.

Defined in this Act: amount, income tax, PCA person, policyholder credit account, policyholder credit account return, tax year

Origin: 2004 No 35 s MD 3(1)

NM 29 Limits on refunds when person no longer PCA person

When this section applies

- (1) This section applies when a person stops being a PCA person and is entitled to a refund as described in section NM 28(1) for a tax year in which they were a PCA person.

Limit on amount of refund

- (2) The amount refunded must not be more than the final balance of the policyholder credit account just before the person stopped being a PCA person.

Defined in this Act: amount, PCA person, policyholder credit account, tax year

Origin: 2004 No 35 s MD 3(2)

NM 30 Changes in credit balances

A credit balance is treated as reduced by the amount of an earlier refund paid to the person during the same tax year within the limits imposed by sections NM 28 and NM 29.

Defined in this Act: amount, tax year

Origin: 2004 No 35 s MD 3(3)

NM 31 Treatment of amounts not refunded

When this section applies

- (1) This section applies when, through the application of sections NM 28 and NM 29, an overpayment of income tax by a PCA person is not refunded to the person.

Satisfying liabilities or retained

- (2) The amount prevented from being a refund is—
 - (a) applied to satisfy an income tax or provisional tax liability of the person for the tax year of the entitlement; and

- (b) retained by the Commissioner to the extent to which paragraph (a) does not apply.

Credit for provisional tax

- (3) Despite subsection (2), the amount may be credited on a provisional tax instalment date if residual income tax is treated under section 120K of the Tax Administration Act 1994 as payable on the date set out in Part 7 of that Act.

Defined in this Act: amount, Commissioner, income tax, instalment date, pay, PCA person, provisional tax, residual income tax

Origin: 2004 No 35 s MD 3(4)

Qualifying companies

NM 32 Application of sections NM 13 to NM 17 to qualifying companies

Sections NM 13 to NM 17 do not apply to an overpayment of tax by a qualifying company that may be refunded to or allocated by the company unless—

- (a) the overpayment was made as part of or under an arrangement—
 - (i) to obtain a tax advantage of a kind referred to in section GC 22(1) (Imputation: arrangement to obtain tax advantage); or
 - (ii) to avoid a tax liability of a shareholder under this Act; and
- (b) the arrangement, or a part of it, was based on the company's ability to obtain a refund of tax that the company would have under those sections if this section did not exist.

Defined in this Act: arrangement, qualifying company, shareholder, tax advantage

Origin: 2004 No 35 s MD 2(7)

Certain unit trusts and group investment funds

NM 33 Limits on refunds for certain unit trusts and group investment funds

When this section applies

- (1) This section applies when a qualifying unit trust or group investment fund—
 - (a) is entitled to a refund under sections NM 2 or NM 4 to NM 6; and
 - (b) has,—

- (i) a credit balance in its supplementary ASC account on liquidation;
and
- (ii) a zero balance in its imputation credit account.

Calculating amount of refund

- (2) The refund must not be more than an amount calculated using the formula—
- $$\text{ASC credit balance} \times \text{maximum imputation ratio.}$$

Definition of items in formula

- (3) In the formula,—
- (a) **ASC credit balance** is the credit balance in the ASC account of the qualifying unit trust or group investment fund, as applicable:
 - (b) **maximum imputation ratio** is the result of the formula set out in section ME 8(1) (Allocation rules for imputation credits), read as if the words “in which the dividend is paid” in item “a” were “in which the liquidation occurs”.

Defined in this Act: amount, group investment fund, imputation credit account, liquidation, qualifying unit trust, supplementary ASC account

Origin: 2004 No 35 s MD 2A