

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

TAX ADMINISTRATION (DIRECT CREDIT OF INCOME TAX AND GAMING MACHINE DUTY REFUNDS) ORDER 2019

Proposal

1. This paper seeks the Cabinet Legislation Committee's agreement to submit the Tax Administration (Direct Credit of Income Tax and Gaming Machine Duty Refunds) Order 2019 to the Executive Council.
2. It is proposed that the Order in Council applies to income tax (including ancillary taxes, such as PAYE) and gaming machine duty refunds made from 1 April 2019.

Policy

3. On 3 April 2018 the Cabinet agreed to implementing mandatory direct crediting of income tax refunds (CAB-18-MIN-0122.01 refers).
4. This proposal would be implemented through an Order in Council under the existing legislative framework in sections 184A and 184B of the Tax Administration Act 1994 (TAA). This framework provides for progressive implementation of mandatory direct crediting for tax types administered by Inland Revenue. It was enacted with effect of 1 April 2000 to benefit taxpayers by eliminating time delays associated with the postal system and costs related to the banking of cheques. Inland Revenue would also benefit from reduced administration costs.
5. Section 184A of the TAA allows for exemptions when direct crediting would cause undue hardship or is impracticable.
6. Progressive implementation for the various tax types through Orders in Council was to allow Inland Revenue the necessary flexibility to determine the dates when direct crediting of refunds relating to different tax types could best be implemented in terms of system readiness and to give taxpayers time to provide Inland Revenue with up-to-date bank account details and taxpayers with complex business activities more time to make arrangements and adapt their processes. The intend was that the Commissioner would eventually be required to direct credit all refunds into taxpayers' bank accounts.
7. Compulsory direct crediting was implemented for goods and services tax (GST) refunds as part of moving the administration of GST to Inland Revenue's new technology platform in the first stage of its Business Transformation programme, as the new technology platform has modernised and improved information flows, self-service online services and more automated processes.

8. The administration of income tax is to be moved to the new technology platform in the next release planned for April 2019. The administration of ancillary taxes, such as PAYE and fringe benefit tax, was moved to the new platform in April 2018. It is therefore a good opportunity to implement direct crediting for income tax refunds (including ancillary taxes) as part of this transition.
9. In addition, the administration of gaming machine duty has already been moved to the new technology platform in April 2018. However, direct crediting under section 184A of the TAA was not implemented at this time as ancillary taxes are a subset of income tax.
10. I recommend that the Committee agree to including gaming machine duty refunds in the scope of the Order in Council, so that direct crediting under section 184A of the TAA applies to all tax types administered in the new technology platform.
11. I also recommend that the Tax Administration (Direct Credit of Income Tax and Gaming Machine Duty Refunds) Order 2019 is made implementing direct crediting under section 184A of the TAA for income tax and gaming machine duty refunds made from 1 April 2019.

Timing and 28-day rule

12. I propose that direct crediting of income tax and gaming machine duty refunds under section 184A of the TAA applies to refunds made from 1 April 2019. The Order would therefore be in accordance with the rule that regulations must not come into force until at least 28 days after they have been notified in the New Zealand Gazette.

Compliance

13. The Order complies with:
 - 13.1 the principles of the Treaty of Waitangi;
 - 13.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 13.3 the principles and guidelines set out in the Privacy Act 1993;
 - 13.4 relevant international standards and obligations; and
 - 13.5 the Legislation Guidelines, which are maintained by the Legislation Design and Advisory Committee.
14. No statutory prerequisite exists for making the Order.

Regulations Review Committee

15. There are no anticipated grounds for the Regulations Review Committee to draw the Order in Council to the attention of the House under Standing Order 319.

Certification by Parliamentary Counsel

16. The Parliamentary Counsel Office has certified that the Order in Council is in order for submission to Cabinet.

Impact Analysis

17. The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper are exempt from the requirement to provide a Regulatory Impact Assessment as they have no or minor impacts on businesses, individuals or not for profit entities.

Publicity

18. I intent to issue a media statement once the Order in Council is made by the Executive Council.
19. The new Order in Council will be published in the New Zealand Gazette and on Inland Revenue's website. Inland Revenue will also publish an article about these changes in its *Tax Information Bulletin*.

Proactive Release

20. I propose to release this Cabinet paper, and associated Order in Council, in full shortly following the publication of the signed Order in Council in the New Zealand Gazette.

Consultation

21. The Treasury, Inland Revenue and the Parliamentary Counsel Office have been consulted in the preparation of this paper.

Recommendations

The Minister of Revenue recommends that the Cabinet Legislation Committee:

1. **note** that on 3 April 2018 the Cabinet agreed that Inland Revenue should issue income tax refunds by direct credit, unless that would result in undue hardship or is not practicable (CAB-18-MIN-0122.01 refers);
2. **agree** that Inland Revenue should issue gaming machine duty refunds by direct credit, unless that would result in undue hardship or is not practicable;
3. **note** that the Tax Administration (Direct Credit of Income Tax and Gaming Machine Duty Refunds) Order 2019 will give effect to the decision referred to in paragraph 1 and 2 above;
4. **authorise** the submission to the Executive Council of the (Direct Credit of Income Tax and Gaming Machine Duty Refunds) Order 2019;
5. **note** that the (Direct Credit of Income Tax and Gaming Machine Duty Refunds) Order 2019 will come into force on 1 April 2019.

Authorised for lodgement

Hon Stuart Nash
Minister of Revenue