



Cabinet Legislation Committee

Minute of Decision

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Tax Administration (Correction of Errors in Employment Income Information) Regulations 2019

Portfolio **Revenue**

On 19 March 2019, the Cabinet Legislation Committee:

- 1 **noted** that on 28 March 2018, the Cabinet Economic Development Committee (DEV) agreed to the following decisions on which methods should be available to employers in the regulations:
 - 1.1 employers should continue to be required to correct reporting errors by amending the original returns;
 - 1.2 employers should be able to correct overpayment errors by:
 - 1.2.1 amending the original returns in which the error occurred; or
 - 1.2.2 recalculating the original pays by netting off the changes against the values in a subsequent return. This option will be subject to a restriction preventing employers from lodging negative values until PAYE is entirely managed within Inland Revenue's new computer system;
 - 1.3 employers should have an option to correct interpretation errors in a subsequent period provided PAYE on the error is less than 10 percent of the relevant employee's PAYE for the payday in which the correction is made;
 - 1.4 employers should have the option to correct overpayment and interpretation errors (subject to the employee threshold) from a previous tax year in a subsequent year;
- 2 **noted** that on 28 March 2018, the Cabinet Economic Development Committee also agreed to the amendment to primary legislation providing that overpaid PAYE income that is not repaid remains taxable as PAYE income should be included in the next taxation omnibus bill;

[DEV-18-MIN-0030]
- 3 **noted** that the Tax Administration (Correction of Errors in Employment Income Information) Regulations 2019 will give effect to the decisions referred to in paragraph 1 above, and provides methods of correction to support the decision referred to in paragraph 2;
- 4 **noted** that the regulations include guidance material in the explanatory note to assist in the application of the provisions to relevant errors;

- 5 **noted** that section 23N(3) of the Tax Administration Act 1994 requires that the responsible Minister be satisfied that consultation that is appropriate and reasonable has occurred before recommending the making of an Order in Council under section 23N;
- 6 **noted** the advice of the Minister of Revenue that this requirement has been met;
- 7 **noted** that regulatory impact analysis has been prepared by Inland Revenue and is attached to the paper under LEG-19-SUB-0027;
- 8 **authorised** the submission to the Executive Council of the Tax Administration (Correction of Errors in Employment Income Information) Regulations 2019 [PCO 21535/6.0];
- 9 **noted** that a waiver of the 28-day rule is sought:
- 9.1 so that the regulations can come into force on 1 April 2019 coinciding with the requirement for payday reporting of employment income information and the commencement date of the provisions relating to the taxable status of overpayments of PAYE income payments in the Tax Administration Act 1994 and the Income Tax Act 2007;
- 9.2 on the grounds that it continues the status quo for how employers correct errors in employment income information, and provides additional options to reduce compliance costs;
- 10 **agreed** to a waiver of the 28-day rule so that the regulations can come into force on 1 April 2019.

Vivien Meek
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Chris Hipkins (Chair)
Hon David Parker
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Tracey Martin
Hon Kris Faafoi
Hon Aupito William Sio
Hon Eugenie Sage
Hon Ruth Dyson (Senior Government Whip)

Officials present from:

Officials Committee for LEG

Hard-copy distribution:

Minister of Revenue