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Tax Administration (Research and Development Tax Credit Deadlines for Taxpayers Affected by Weather Events) Order 2023

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This special report provides early information ahead of an upcoming edition of the *Tax Information Bulletin* on extending the deadline for filing an approval application or supplementary return until 31 March 2023 for taxpayers with a relevant deadline falling between 26 January and 7 March 2023, if they are significantly adversely affected by the weather events in their ability to meet the filing deadline.

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Order

Sections 33E, 68CB, and 68CC of the Tax Administration Act 1994

The Tax Administration (Research and Development Tax Credit Deadlines for Taxpayers Affected by Weather Events) Order 2023 came into force on 20 February 2023. It sets 31 March 2023 as the revised final date for filing an approval application or supplementary return required under sections 33E, 68CB, and 68CC of the Tax Administration Act 1994, in relation to applying for and claiming the Research and Development Tax Incentive, if an existing deadline falls between 26 January 2023 and 7 March 2023.

Background

Between 26 January 2023 and 3 February 2023, a series of fronts crossed the upper North Island delivering extremely heavy rain, high winds, and widespread flooding. Then, from 12 February 2023 to 16 February 2023, Cyclone Gabrielle moved across the North Island, also resulting in heavy rain, high winds, and flooding.

These weather events have impacted the ability of some businesses enrolled in the Research and Development Tax Incentive (RDTI) to be able to file on time. Filing may be for either an approval (a general approval, a criteria and methodologies approval, or a variation of those approvals) or for a supplementary return. Both an approval application and a supplementary return must be filed in time to claim R&D tax credits for the year. The due dates for these filings vary depending on factors like the taxpayer's balance date and whether they have an extension of time for filing their income tax return. Inland Revenue has no operational discretion it can apply in response to the weather events to accept late RDTI filings.

Key features

The Order provides relief from the weather events by allowing taxpayers more time to make an RDTI filing. Specifically, taxpayers with an RDTI filing deadline that falls between 26 January 2023 and 7 March 2023, and is required under sections 33E, 68CB, and 68CC of the Tax Administration Act 1994, are allowed an extension of that deadline until 31 March 2023.

The extension applies to taxpayers whose ability to meet the filing deadline is significantly adversely affected by the weather events. Due dates that may potentially be affected include:

- 31 January 2023, for criteria and methodologies approval applications for July 2023 balance dates;
- 7 February 2023, for:

- general approval variation requests for 2023 supporting activities for December 2021 balance dates;
- general approval applications for September 2022 balance dates;
- general approval applications and variation requests for December 2022 balance dates;
- criteria and methodologies approval variation requests for December 2022 balance dates;
- 14 February 2023, for supplementary returns for September 2022 balance dates for taxpayers with no extension of time for their income tax return;
- 28 February 2023, for criteria and methodologies approval applications for August 2023 balance dates;
- 7 March 2023, for:
 - general approval variation requests for 2023 supporting activities for January 2022 balance dates;
 - general approval applications and variations requests for January 2023 balance dates;
 - criteria and methodologies approval variation requests for January 2023 balance dates.

The Order is made under section 226 of the Tax Administration Act 1994. That section allows for extensions of time to be granted by Order in Council to meet requirements under some of the Inland Revenue Acts, even if the deadline has already expired.

Effective date

The Order came into force on 20 February 2023.

Further information

The new regulations can be found at:

<https://www.legislation.govt.nz/regulation/public/2023/0011/latest/whole.html#LMS817315>

About this document

Special reports are published shortly after new legislation is enacted or Orders in Council are made to help affected taxpayers and their advisors understand the consequences of the changes. These are published in advance of an article in the *Tax Information Bulletin*.