



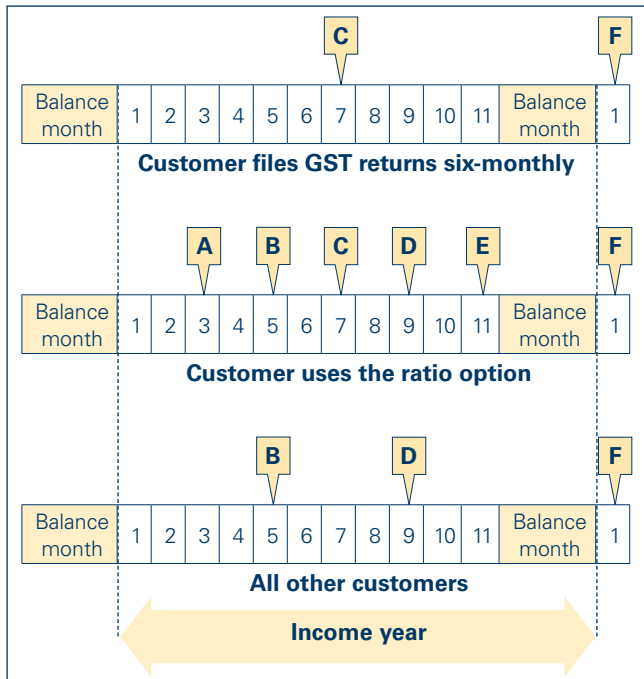
New provisional tax due dates

The due dates for GST and provisional tax have been aligned, which means that clients now have standardised due dates for these taxes.

The alignment took effect on 1 April 2008 for clients with a standard 31 March balance date. If these clients elected to use the ratio option before 1 April 2008 and meet the criteria, they can use it to calculate their provisional tax instalments during their 2008-09 tax year.

Below are two tables to help you identify the provisional tax due dates for clients with standard or non-standard balance dates. Refer to Table A first as this shows which columns to refer to in Table B. Table B provides the appropriate due dates for different balance dates.

Table A



Client using GST ratio option – example

If a client uses the ratio option to calculate their provisional tax, their provisional tax due dates are indicated in columns A, B, C, D, E and F. If this client has a 31 March balance date, their provisional tax payments are due:

- 28 June
- 28 August
- 28 October
- 15 January
- 28 February
- 7 May.

Client using GST ratio option

Because of the due date alignment, these provisional tax due dates also correspond to the GST due dates for clients who pay GST every two months, and the GST due dates for every second GST return for clients who pay GST every month.

Table B

Compulsory provisional tax instalment due dates

Provisional tax instalment*						
Month of balance date	A	B	C	D	E	F
October	28 Jan	28 Mar	28 May	28 Jul	28 Sep	28 Nov
November	28 Feb	7 May	28 Jun	28 Aug	28 Oct	15 Jan
December	28 Mar	28 May	28 Jul	28 Sep	28 Nov	28 Jan
January	7 May	28 Jun	28 Aug	28 Oct	15 Jan	28 Feb
February	28 May	28 Jul	28 Sep	28 Nov	28 Jan	28 Mar
March	28 Jun	28 Aug	28 Oct	15 Jan	28 Feb	7 May
April	28 Jul	28 Sep	28 Nov	28 Jan	28 Mar	28 May
May	28 Aug	28 Oct	15 Jan	28 Feb	7 May	28 Jun
June	28 Sep	28 Nov	28 Jan	28 Mar	28 May	28 Jul
July	28 Oct	15 Jan	28 Feb	7 May	28 Jun	28 Aug
August	28 Nov	28 Jan	28 Mar	28 May	28 Jul	28 Sep
September	15 Jan	28 Feb	7 May	28 Jun	28 Aug	28 Oct

* Schedule 3, Part A, Income Tax Act 2007.

If this diagram shows a payment is due in December or April, the actual due date will be 15 January or 7 May, respectively.



Imputation credits

From the start of the 2008–09 tax year, provisional tax due dates will be aligned with GST due dates. This may affect the amount of imputation credits your clients have available to attach to any dividends they pay during the 2008–09 tax year.

Background

Imputation is the system that allows a company's income tax paid to pass to its shareholders through credits attached to dividends the company pays.

It operates on a tax paid basis which means for a given tax year, you can only credit the imputation credit account with income tax **amounts** that are actually paid during that year. For all companies, the tax year is 1 April to 31 March, irrespective of the company's balance date for income tax.

How are imputation credits affected by the new provisional tax due dates?

The new provisional tax due date rules mean that clients will have a provisional tax instalment due after the end of their tax year and the number of instalments they are required to make will be determined by their calculation option and filing frequency.

During the 2008–09 tax year there will generally be fewer provisional tax instalments due and paid. So, please ensure that imputation credit accounts only record the provisional tax instalments (compulsory or voluntary) paid in this period.

Example

A client with a standard 31 March balance date will have three compulsory provisional tax instalments due on the following dates for the 2008–09 tax year:

Provisional tax instalment	Due date
First	28 August 2008
Second	15 January 2009
Third	7 May 2009

Only the first **two** of these payments will fall during the 2008–09 tax year and can be included in that imputation return.

The payment due on 7 May 2009 (the third instalment) will be included in the 2009–10 imputation return as it is made during that tax year.

The 2009–10 tax year will include these three provisional tax payments:

- 7 May 2009 (third instalment for the 2008–09 tax year)
- 28 August 2009 (first instalment for the 2009–10 tax year)
- 15 January 2010 (second instalment for the 2009–10 tax year).

How to avoid going into debit

To avoid a debit balance in your clients' imputation credit accounts at the end of the tax year, please do not attach imputation credits for provisional tax payments made after 31 March 2009 to any dividends paid during the 2008–09 tax year.

Alternatively, clients can pay their third instalment of provisional tax early (before 31 March 2009).

Compulsory employer contributions

From 1 April, employers are required to contribute to their employees' savings in KiwiSaver schemes and complying superannuation funds.

The initial contribution rate is 1% of gross salary or wages.

Employers need to make contributions if an employee:

- is having KiwiSaver or complying fund deductions from their salary or wages
- is 18 or over
- has not reached the age of eligibility for New Zealand Superannuation (currently 65), or has not been a member of a KiwiSaver scheme or complying fund for five years, whichever date is later
- is not a defined benefit scheme member.

If employees are KiwiSaver members, employers must use the "KiwiSaver employer contributions" column of the *Employer monthly schedule (IR 348)* to make the compulsory employer contribution, either online through ir-File or by sending us the printed form.

If employees are members of a complying superannuation fund contributions are paid direct to the scheme provider, not through Inland Revenue.

Employer tax credit

From 1 April, employers can claim a tax credit of up to \$20 per member per week if the employer contributes to KiwiSaver schemes or complying superannuation funds on behalf of their employees.

The tax credit is offset against the total payment due on the *Employer deductions (IR 345)* form and the **net** amount is paid to Inland Revenue.

Important: Employers must file an IR 345 to claim their employer tax credit, either online through ir-File or by sending us the printed form.



For more information on compulsory employer contributions and the employer tax credit please refer to the following sources:

- www.ird.govt.nz/kiwisaver/employers/
- PAYE and holiday pay calculators
www.ird.govt.nz/calculators/keyword
- *KiwiSaver employer guide (KS 4)*
- *Employer's guide to calculating your KiwiSaver compulsory employer contributions and claiming your employer tax credits (KS 35)*.

Note

Employers may have recently received a copy of the KS 35. Section 3 of this guide lists the maximum monthly employer tax credit able to be claimed per employee for October as \$85.71. The correct amount for October is \$88.57. An updated version of the KS 35 is available on our website.

Client responsibilities when using a tax advisor

We generally consider that a client has taken reasonable care if they have relied on advice provided by a tax advisor. In most cases, if they use a tax agent, they won't incur a shortfall penalty for not taking reasonable care.

However, the Taxation (Business Taxation and Remedial Matters) Act 2007 provides that a client of a tax advisor may incur a shortfall penalty for not taking reasonable care if the client:

- fails to provide adequate information when seeking advice
- fails to provide reasonable instructions to the tax advisor
- unreasonably relies on a tax advisor or on advice that they have reason to believe is incorrect
- in the previous four years has a tax shortfall that arose from a corresponding tax position.

The sale of private homes to loss attributing qualifying companies (LAQCs) to generate tax deductions

In December we released a *Revenue Alert* highlighting our concerns about people who sell their own or family home to an LAQC, then rent the property back to themselves and claim tax deductions for the property that would otherwise be considered to be private expenses. With very few exceptions, Inland Revenue considers this to be tax avoidance. To further ensure that people understand their obligations we will shortly send letters to everyone with residential rental LAQCs, outlining our concerns and suggesting they seek professional tax advice about their particular situation.

The *Revenue Alert* can be found www.ird.govt.nz/technical-tax/revenue-alerts/revenue-alert-ra0701

Research and development (R&D) tax credit details now online

Details of the new R&D tax credit are available on Inland Revenue's website.

The website contains the information businesses will need to assess their eligibility for the tax credit and outlines the record-keeping requirements of the new system.

It includes guidance material adapted for the web from the paper-based draft guidelines released for public consultation in December 2007. We have incorporated feedback from that process into the website and we will progressively add more information as it becomes available.

The detailed statement to support an R&D tax credit claim, and guidelines for completing this, will be available online in time for businesses to file their first claims. If you need to file before 1 April 2009, please call us on 0800 377 774.

What is the R&D tax credit?

The R&D tax credit is aimed at encouraging businesses to invest more in R&D, because the Government believes there are wider benefits to New Zealand from greater investment in R&D. The tax credit is equal to 15% of eligible expenditure for businesses doing eligible R&D. It took effect from the start of the 2008–09 income tax year (1 April 2008 for most businesses).

Eligible businesses will claim the tax credit in their annual income tax return. They will also need to file a supporting detailed statement, which must be done online, no later than 30 days after the business's income tax return due date.





The credit reduces income tax liability with the credit applied to any tax liabilities and the remainder being available for refund or transfer. Businesses that don't pay tax, such as those running at a loss, can still claim the credit if they are eligible.

Businesses should be aware that if an R&D claim is rejected or reassessed and reduced by us, use-of-money interest and penalties will apply in the normal way.

Eligibility criteria

All types of businesses may be eligible to claim the tax credit, including sole traders, companies and partnerships. Entities that have tax-exempt income only may also be eligible for the tax credit.

To be eligible a business must operate in New Zealand. The R&D activities it carries out must be related to its current or intended business and the business must also control the R&D, bear the financial risk and own the results. A business can either conduct the R&D in-house or contract a public or private sector research provider to do it for them.

Businesses that provide R&D services on behalf of others are not eligible for the tax credit for that work, unless they are industry research cooperatives. Crown research institutes, tertiary institutes, district health boards or any entities associated with or controlled by them are not eligible. Research done in partnership with an ineligible organisation is not eligible for the tax credit.

Eligible expenditure must meet a number of criteria and not be specifically excluded—see our website for more details.

To be eligible, a business must spend more than \$20,000 on R&D in an income year, unless it uses a listed research provider (LRP). These are research providers listed on our website that undertake R&D activities for other, non-associated organisations. If the organisation was not in business for the full year, the minimum threshold is pro-rated.

To be eligible for the tax credit, R&D activities must include systematic, investigative and experimental (SIE) activities carried out to acquire new knowledge or create new or improved materials, products, devices, processes or services that:

- are intended to achieve an advance in science or technology by resolving scientific or technological uncertainty, or
- have an appreciable element of novelty.

Other activities required for and integral to the SIE activities, referred to as support activities, may also be eligible.

More information

You'll find more information about the tax credit at www.ird.govt.nz/rd-tax-credit/rd-tax-credit-index or you can call us on 0800 377 774 if you need further assistance.

Redundancy tax credits (RTCs)

New laws passed in December 2007 mean that employees who receive a redundancy payment may now be able to claim a tax credit shortly after losing their job. Employees who have already been made redundant may also benefit—the law has been backdated to take effect from 1 December 2006.

How much is the RTC?

The RTC is 6% of the redundancy payment, up to a maximum claim of \$3,600 per redundancy.

Qualifying employees will get the maximum tax credit of \$3,600 if they receive a redundancy payment of \$60,000 or more.

Example

If your redundancy payment is ...	your credit will be ...	
\$20,000	$\$20,000 \times .06$	\$1,200
\$65,000	$\$60,000 \times .06$	\$3,600

Which redundancy payments qualify for a tax credit?

Employees can generally claim a tax credit if their employment was terminated because their position was surplus to the employer's requirements, and the redundancy payment compensated the employee for their loss of employment.

Anyone who became redundant and received a redundancy payment on or after 1 December 2006 may qualify for the tax credit.

However, the tax credit is not allowed for a payment relating to:

- retirement from employment
- loss of seasonal employment arising from a normal seasonal work cycle
- a contract of employment for a fixed term, or for the duration of a project
- employment for a period following notice of termination of employment.



Redundancy payments paid by an employer to an associated or related person may not qualify for a tax credit. Examples include payments paid directly or indirectly by:

- a company to its director, or to a shareholder-employee
- an employer who is a close relative of the employee, or spouse, or civil union or de facto partner
- a partnership to any of its partners
- a trustee to an employee who is also a beneficiary or a settlor of the trust.

How do employees claim an RTC?

They need to fill out a *Redundancy tax credit (IR 524)* form. It's available under "Forms and guides" at www.ird.govt.nz

We also need a letter, or a calculation sheet from the employer confirming the amount of the redundancy payment the employee received. The employee should staple the letter to the IR 524 and send them in to us as soon as possible. A redundancy tax credit can be claimed at any time—you don't need to wait until the end of the year.

Questions and answers about KiwiSaver

Here are answers to some KiwiSaver questions we've been asked recently, which you may like to share with your clients:

- Q.** If an employer makes a voluntary extra contribution to a KiwiSaver scheme in relation to a redundancy payment, are they eligible for the employer tax credit?
- A.** Yes, provided they meet the other relevant requirements they can claim the employer tax credit up to a maximum of \$20 per week. The redundancy payment does not count for working out the employee deduction or compulsory employer contributions.
- Q.** Is it true that ACC will no longer deduct payments if someone joins?
- A.** ACC will not automatically enrol someone in KiwiSaver. Nor will they begin making deductions for members unless specifically asked to by the member (KS 2 form or similar). However, ACC will still make deductions from ACC payments when requested to by the member.
- Q.** If an employee opts out after the employer has already claimed the employer tax credit from Inland Revenue, how is this claimed back?
- A.** If the member opts out no compulsory employer contributions would be payable and we will refund any employer contributions less the amount of employer tax credit claimed.

- Q.** Under the new legislation an employer must meet and discuss salary sacrifice arrangements with employees and renegotiate in good faith. If the employer contributions provided under an arrangement are part of a total remuneration package how does that affect KiwiSaver contributions? Is the employer obliged to pay on top?
- A.** Any employment contract clause that was in place before 13 December 2007 which has the effect that compulsory employer contributions are not paid on top of salary or wages being paid has no effect from 1 April 2008 and would need to be renegotiated in good faith.

A friendly reminder

Remember, unless they are exempt, employers must automatically enrol all eligible new employees and send us their details including name, address and IRD number using the *KiwiSaver employee details (KS 1)* form. Employers can provide this form manually or complete it online through ir-File.

To order more copies of the KS 1 form, employers can download copies from www.ird.govt.nz/kiwisaver/employers under "Forms and guides" on the right-hand menu or call INFOexpress on 0800 257 773 and have their IRD number handy.

Effective dates for other legislative changes

Definition of salary and wages for KiwiSaver

The definition of salary and wages now excludes redundancy payments, accommodation benefits or allowances and overseas living costs. This means no employee deductions or compulsory employer contributions are required for these salary components from 1 April 2008.

Casual employee definition

The new definition of a casual employee ie, casual employees engaged on an irregular and intermittent basis and people who receive holiday pay with their wages are not subject to automatic enrolment, takes effect from 1 April 2008.





Date change for Online Services

We've rescheduled our Online Services "look and feel" changes for later this month so we can deliver an even better product to you. We want you to get the best out of the changes to our online services that require login (including ir-File, Look at account information, Client maintenance, Send and receive mail, Portfolio investment entity [PIE] file transfer) so we're fine-tuning: the look and feel, navigation and personalised menus.

Thanks to all of you who gave us feedback on our **Online Services** in the recent NZICA (New Zealand Institute of Chartered Accountants) series of meetings. You can preview the changes on our homepage under "**News and updates**". When the changes are live you will need to change the link in your bookmarks or favourites to the new website address.

Managing the company tax rate change

With the change in the company tax rate taking effect from the start of the 2009 income year for all entities taxed at the company rate, we're managing a number of changes that will affect you and your clients.

The changes affect:

- how companies calculate provisional tax payments at the new rate, based on income taxed at the previous rate
- attaching imputation credits from the old rate to dividends paid after the new rate applies
- other rates and formulas linked to the company tax rate, such as QCET, conduit, BETA, FITC and carrying forward excess imputation credits
- the definition of which entities pay tax at which rate, eg widely held savings vehicles.

We're managing the changes through:

- ensuring our staff are up-to-date with these changes
- updating printed and online materials such as returns, return guides, related forms, guides and booklets
- newsletter articles
- website updates
- presentations to stakeholders.

More information is available in our *Tax Information Bulletin (TIB)* Vol 20, No 3, due out at the end of April. We'll continue to keep you informed by further articles in this newsletter and TIB.

Note from the editor

If your mailing details are incorrect, we have missed someone off the distribution list or you have suggestions for future topics, please contact:

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