Inland Revenue
Te Tari Taake

8 September 2023

[redacted]

Dear [redacted]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 13 August 2023. You requested the following:

> *…all of IRD'S policies/documents etc that speak on the topic of ACC backdated weekly compensation and how each step is set out, including how taxes are paid, what benefits are paid back to Work and Income and how it is backdated to specific years.*

Inland Revenue does not administer Accident Compensation Corporation (ACC) backdated payments. There are no Inland Revenue policies/documents that specify how each step is set out, including how taxes are paid and what benefits are paid back to Work and Income and how it is backdated to specific years. I am therefore refusing your request under section 18(e) of the OIA, as the documents alleged to contain the information requested do not exist.

Information, including policies related to backdated weekly compensation, is available on ACC's website (acc.co.nz) by searching for "backdated weekly compensation".

However, you may find the following information from Inland Revenue's internal knowledge base for staff on guidelines on the taxation of ACC lump sum payments useful.

Internal guidelines on the taxation of ACC lump sum payments

If the taxpayer is entitled to a backdated payment, ACC will provide them with an information sheet explaining when a backdated compensation applies and how the amount is calculated.

Taxpayers who were entitled to ACC weekly compensation but did not receive it, may be entitled to a backdated payment. Any backdated payment received from ACC is considered to be taxable income in the year in which the customer receives it. This can increase the taxpayer's tax liability for the year and also impact their Working for Families entitlement, Child Support obligations, or student loan repayments.

The lump sum is taxed by ACC as normal under PAYE rules (being a current year receipt and taxable in the year of receipt as an extra pay). This amount is reflected in the employment information provided to Inland Revenue by ACC.

Lump sum payments

Lump sum payments (also called extra pays) include:

- annual or special bonuses (regular bonuses aren't included and should be taxed as per normal)
- cashed up holiday pay
- retiring or redundancy payments

- payments for accepting restrictive covenants
- exit inducement payments
- gratuities
- remedial payments
- lump sum holiday pay
- employee share scheme benefits

If a customer believes they will be overtaxed on their lump sum payment (usually if they have more than one job) they can apply for a tailored tax code. The employee can also elect to have their lump sum/bonus/allowance taxed at a higher rate, for example if they have another job or other untaxed income. The employee needs to advise the employer if they want a higher rate to apply and this rate is used in the calculation.

Details required for calculation

- Tax code
- Payment frequency
- Date of calculation
- Lump sum figure (gross or net)
- Last four weeks income from this employer

More information on this can be found on Inland Revenue's website (ird.govt.nz) by searching for "Calculate PAYE for a lump sum payment."

As indicated in the above guidelines, tax law currently treats backdated multi-year lump sum payments, from ACC and other payers, as income in the year that the payment is received.

Generally, any reimbursement required to Work and Income for benefits paid and taxed in previous tax years will be deducted before ACC complete their tax calculation.

If you are applying for backdated weekly compensation, you can consider applying for a tax code, tailored to your circumstances, once you are made aware of the likely taxable amount you will receive. You can do this through the myIR secure online service. Any deduction will be an interim amount, it will not be until after the end of the tax year that your income tax assessment is finalised.

Proposed Government change to tax treatment of ACC lump sum payments

The Government is currently proposing a change to the current tax treatment of ACC lump sum payments which, if passed, would apply to payments made after 1 April 2024. The proposed change would tax those payments at the recipient's average tax rate calculated over the four years prior to the year of receipt of the payment.

This proposal is contained in a Bill which is currently being reviewed by the Finance and Expenditure Committee. Details of the proposed change can be found within the Bill commentary (page 95) on Inland Revenue's tax policy website at: www.taxpolicy.ird.govt.nz/-/media/project/ir/tp/publications/2023/2023-revised-commentary-multinatonal-tax-bill/2023-revised-commentary-multinatonal-tax-bill-pdf.pdf?modified=20230531042748&modified=20230531042748

If you have any enquiries about your specific case, I encourage you to send a web message via your myIR account.

Right of Review

If you disagree with my decision on your OIA request, you can ask an Inland Revenue review officer to review my decision. To ask for an internal review, please email the Commissioner of Inland Revenue at: commissionerscorrespondence@ird.govt.nz.

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decision. You can contact the office of the Ombudsman by email at: info@ombudsman.parliament.nz.

If you choose to have an internal review, you can still ask the Ombudsman for a review.

Publishing of OIA response

Please note that Inland Revenue regularly publishes responses to requests that may be of interest to the wider public on its website. We consider this response is of public interest so will publish this response in due course. Your personal details or any information that would identify you will be removed prior to it being published.

Thank you for your request.

Yours sincerely

[redacted]

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