

**DETERMINATION** > COVID-19 VARIATION

# Variation to section FN 7(5) of the Income Tax Act 2007

Issued: 28 April 2021

**COV 21/02**

**EFFECTIVE:** 28 April 2021 to 30 September 2021

## Determination

The Commissioner of Inland Revenue has, under the discretion provided under section 6I of the Tax Administration Act 1994, made the following statutory variation:

Section FN 7(5) of the Income Tax Act 2007 is varied to state that a notice of election under subsection (1) has effect from the start of the tax year ending 31 March 2020.

This variation applies until 30 September 2021 and only applies in the situation where:

- a company or a consolidated group of companies has a debit balance in their imputation credit account at the end of March 2020;
- at that date, there were reasonable grounds for expecting that by the end of their income year they would have profits that were more than the amount they would need to purchase tax from a tax pool to reduce the debit balance;
- instead of making such profits, they end up with significantly reduced profits due to the effects of COVID-19 such that using a tax pool, whether through tax pool financing or a debt facility, or any other option will adversely affect their cashflow;
- the eligibility requirements in s FN 4(1) to form an imputation group with another company in a wholly-owned group would have been satisfied at 31 March 2020 if they had made an election to form an imputation group with that company; and
- The other company in the wholly-owned group had imputation credits that could have been used to reduce the debit balance at the end of March 2020 if an election to form an imputation group had been made before 31 March 2020.

## Application date

This variation applies from 28 April 2021 to 30 September 2021

Dated at Wellington on 28 April 2021

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## **Background (material under this heading does not form part of the variation)**

### **Summary of effect**

1. The effect of the variation will be to assist cashflow for customers whose profits for the 2020 income year were adversely affected by COVID-19 and who had an imputation debit balance in their imputation credit account at 31 March 2020 but did not give the Commissioner the notice of election to form an imputation group that they could have given by that date to allow credits in a related company to be used to reduce the debit balance.
2. They will be able to give a notice of an election to form an imputation group that will be effective from the start of the tax year ending 31 March 2020, allowing use of the credits of the related company to reduce the debit balance.

### **Provision affected**

3. Section FN 7 of the Income Tax Act 2007.

### **Application of variation:**

4. This variation recognises that some customers who did not take steps to address a debit balance in their imputation credit account before 31 March 2020 could have used a tax pool or other option to reduce the balance subsequently but the impact of COVID-19 on their profits has been such that these options will adversely affect their cashflow.
5. The variation will assist by changing the date specified in s FN 7(5) from which a notice of election to form an imputation group under s FN 7(1) may have effect, allowing available credits in the imputation credit account of a related company to offset the debit balance. This is provided they otherwise met the requirements to imputation group as at 31 March 2020 and the related company has sufficient credits available.

## Legislative References

Tax Administration Act 1994: ss 6H and 6I

## About this document

These variations concern the Commissioner's additional discretion to extend a due date, deadline, time period or timeframe or vary a procedural or administrative requirement arising from COVID-19 or the Government's response measures.