

**DETERMINATION** > COVID-19 VARIATION

# Variation to section 68CB(2) of the Tax Administration Act 1994

Issued: 15 October 2021

COV 21/04

**EFFECTIVE:** 1 October 2021 to 31 March 2022

## Variation

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

*For a general approval application in relation to the research and development tax credit for the 2020-2021 income tax year under section 68CB(2) of the Tax Administration Act 1994, for applicants whose 2020-2021 income year ends on 31 May 2021 or later, the date by which that application must be filed with the Commissioner is amended to be the 7<sup>th</sup> day of the fifth month after the end of the income year.*

*This applies in circumstances where the planning or conduct of eligible research and development or the ability to appropriately obtain necessary information, seek advice and formulate an application under section 68CB of the Tax Administration Act 1994 on time has been materially delayed or disrupted by the COVID-19 outbreak and its effects.*

## Application date

This variation applies from 1 October 2021 to 31 March 2022.

Dated at Wellington on 15 October 2021.

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

### **Summary of effect**

1. Section 68CB of the TAA requires a person to file a general approval application in relation to their research and development activities on or before the 7<sup>th</sup> day of the 2<sup>nd</sup> month after the end of the relevant income year. For the 2020-21 income tax year, the time by which an application must be filed has been extended by three months using s 6I of the TAA in COV 20/10 "Variation to section 68CB(2) of the Tax Administration Act 1994". That variation did not however provide the same level of extension to applicants with balance dates of 31 May 2021 or later, because the power in s 6I was to expire at 30 September 2021. The application of s 6I has now been extended to 30 September 2022, and the Commissioner has concluded that the same extension should be provided to these applicants.
2. Accordingly, this variation has the same effect as COV 20/10 for those applicants. It applies to ensure that applicants with balance dates of 31 May 2021 or later may be entitled to the full three months extension of time, on the same conditions. Those applicants to whom COV 20/10 already provides an additional three months are not affected by this variation.

### **Provisions affected**

3. Section 68CB(2) of the Tax Administration Act 1994.

### **Application of variation:**

4. This variation applies to a person with a balance date of 30 May 2021 or later, for the 2020/21 income year, who is seeking the Commissioner's approval of their research and development activities by filing a general approval application under s 68CB of the Tax Administration Act 1994. The variation recognises that the impact of COVID-19 means that the planning or conduct of research and development or the ability to obtain information, seek advice and formulate an application may have been delayed.
5. This variation effectively extends the existing COV 2020/10, by ensuring that persons with a balance date of 30 May 2021 or later, for the 2020/21 income year, can gain the full advantage of the additional three months by which the relevant date has been extended. Other persons rights are not affected.

## Associated variations:

6. See also COV 20/10 "Variation to section 68CB(2) of the Tax Administration Act 1994" dated 1 September 2020.

## Legislative References

Tax Administration Act 1994: ss 6H and 6I, s 68CB

## 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.