

DETERMINATION > COVID-19 VARIATION

Variation to section HB 13(3)(b) of the Income Tax Act 2007

Issued: 3 March 2022

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EFFECTIVE: 1 March 2022 to 30 June 2022

Variation

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

For the 2021 income year, where a company makes an election to be a look-through company and s HB 13(3)(b) of the Income Tax Act 2007 applies, the deadline by which that election must be received by the Commissioner is extended to include an election received by the Commissioner on or before 30 June 2022.

This variation only applies to a taxpayer that has had difficulty making a notice of election because of circumstances arising either from the imposition of COVID-19 response measures or because of COVID-19. This could include the impact of a key staff member or advisor having reduced availability, or the financial impact of COVID-19 causing significant disruption to the normal business operations of the taxpayer.

Application date

This variation applies from 1 March 2022 to 30 June 2022.

Dated at Wellington on 3 March 2022.

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

Summary of effect

1. Section HB 13(3)(b) of the Income Tax Act 2007 provides that in the case of a company that has not previously been required to file a return of income prior to the year in which they wish to be treated as a look-through company (LTC), the LTC election must be received by the Commissioner before the last day for filing the return of income. The due date for filing that LTC election has been extended to 30 June 2022 using s 6I of the Tax Administration Act 1994.

Provisions affected

2. Section HB 13(3)(b) of the Income Tax Act 2007.

Application of variation

3. This variation applies to all companies who wished to elect to be an LTC and have not previously been required to file a return of income. It recognises that the impact of COVID-19 may have adversely affected some companies' ability to file their LTC election on time, and this will mean they are unable to be treated as an LTC for the year in question. For this reason, the due date for providing this election has been extended.
4. Customers can choose not to apply the variation to their circumstances. You can make that decision by taking a tax position, such as in a tax return, or by telling us. If you have already complied with the existing legislation in taking a tax position, we will consider that you have not chosen to apply the variation.

References

Legislative references

Tax Administration Act 1994: ss 6H and 6I

Income Tax Act 2007: s HB 13(3)(b)

About this publication

To help customers manage the impacts of COVID-19, the Commissioner now has a discretion to vary a requirement under an Inland Revenue Act (including for these purposes, the Unclaimed Money Act 1971). This discretion is found in ss 6H and 6I of the Tax Administration Act 1994 and applies from 17 March 2020 to 30 September 2022. This variation is an exercise of that power.