

DETERMINATION > COVID-19 VARIATION

Variation to section HC 6 of the Income Tax Act 2007: Beneficiary income

Issued: 4 March 2022

COV 22/05

EFFECTIVE: 4 March 2022 to 15 July 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:

Where a trustee of a trust was unable for the 2021 income year to meet the requirements of section HC 6(1B)(b)(ii) of the Income Tax Act 2007 to make payment to a beneficiary, the Commissioner will treat any such payment that is made on or before 15 July 2022 as having met those requirements.

This is subject to the conditions that:

- This variation only applies to a trustee that has had difficulty in meeting the requirements of section HC 6(1B)(b)(ii) of the Income Tax Act 2007 because of circumstances arising either from the imposition of COVID-19 response measures or as a consequence of COVID-19. This could include delays in the preparation of the trust's financial accounts as a result of COVID-19, the effect of COVID-19 on the ability of the trustees (and their advisor) to meet to make decisions concerning the distribution of beneficiary income, and the financial impact of COVID-19 causing significant disruption to the normal business operations of the trust, the trustees or the trustees' advisor.
- Where any such payment is made to a beneficiary, the trustee must advise the beneficiary to take such steps as are necessary to ensure that any income tax assessment already made for the 2021 tax year is amended to include the beneficiary income.

Application date

This variation applies from 4 March 2022 to 15 July 2022.

Dated at Wellington on 4 March 2022.

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Inland Revenue

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

Summary of effect

1. The effect of the variation is to allow those trustees who have not already paid 2021 beneficiary income and for whom 31 March 2022 is the last date by which they must determine and pay amounts of beneficiary income in respect of a trust's 2021 income year an additional period to determine and pay amounts of 2021 beneficiary income.

Provisions affected

2. Section HC 6 of the Income Tax Act 2007.

Application of variation

3. This variation applies to trustees who have not already paid all amounts of beneficiary income in respect of the 2021 income year and for whom 31 March 2022 is the last date by which they must determine and pay amounts of beneficiary income in respect of a trust's 2021 income year. The variation recognises the impact COVID-19 may have on the ability of some trustees or their advisors to get the necessary advice and make the required decisions and payments within the usual timeframe.
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've 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 HC 6

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 variations are allowed until 30 September 2022. This variation is an exercise of that power.