

DETERMINATION > COVID-19 VARIATION

Variation to sections 33E, 68CB(2) and 68CC(3) of the Tax Administration Act 1994

Issued: 9 March 2022

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EFFECTIVE: 9 March 2022 to 31 May 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 supplementary return for the 2020-2021 tax year under s 33E of the Tax Administration Act 1994, the date by which a supplementary return must be filed is amended to be 31 May 2022 for a person whose due date for filing under s 33E would otherwise be 30 April 2022.

For a general approval application in relation to the R&D tax credit for the 2021-2022 income tax year under section 68CB(2) of the Tax Administration Act 1994, for applicants whose 2021-2022 income year ends between 31 December 2021 and 31 March 2022 inclusive, the date by which that application must be filed with the Commissioner is amended to be the earlier of 31 May 2022 or a date that represents a two-month extension to their filing date.

For a criteria and methodologies notice in relation to the R&D tax credit for the 2021-2022 and 2022-2023 income tax years under section 68CC(3) of the Tax Administration Act 1994:

- for applicants whose 2021-2022 income year ends on 31 August 2022 or 30 September 2022, the date by which that notice must be filed with the Commissioner is extended to the earlier of 31 May 2022 or a date that represents a two-month extension to their filing date
- for applicants whose 2022-2023 income year ends on 31 October 2022, the date by which that notice must be filed with the Commissioner is extended to 31 May 2022.

This variation 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 sections 68CB or 68CC or prepare a return under sections 33E of the Tax Administration Act 1994 on time has been materially delayed or disrupted because of circumstances arising either from COVID-19 or COVID-19 response measures. 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 9 March 2022 to 31 May 2022.

Dated at Wellington on 9 March 2022.

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Inland Revenue

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

Summary of effect

1. This variation extends:
 - By one month (to 31 May 2022), the time by which a person with an extension of time for filing under s 37 of the Tax Administration Act 1994 must make a supplementary return for the 2020-2021 tax year;
 - By up to two months the times by which a person with a balance date between December 2021 and March 2022 (to 31 May 2022 for a person with a standard balance date), to be entitled to research and development tax credits under s LY 1 of the Income Tax Act 2007, must apply for general approvals for the 2021-2022 income year;
 - By two months (to 30 April 2022) for a person with an August balance date and by one month (to 31 May 2022) for a person with a September balance date, to be entitled to research and development tax credits under s LY 1 of the Income Tax Act 2007, the time by which they must apply for criteria and methodology approval for the 2021-2022 income year;
 - By two months (to 31 May 2022), the time by which a person with an October balance date, to be entitled to research and development tax credits under s LY 1 of the Income Tax Act 2007, must apply for criteria and methodology approval for the 2022-2023 income year.

Provisions affected

2. Sections 33E, 68CB(2) and 68CC(3) of the Tax Administration Act 1994.

Application of variation

3. This variation applies to a person who is filing a research and development supplementary return for the 2020-2021 tax year or who is seeking the Commissioner's approval of their research and development activities by filing a general approval application for the 2021-2022 income year under s 68CB of the Tax Administration Act 1994 or who is seeking the Commissioner's approval of their research and

development activities by filing a criteria and methodologies application for the 2021-2022 or 2022-2023 income years under s 68CC of the Tax Administration Act 1994.

4. The variation recognises that the impact of COVID-19 means the planning or conduct of research and development or the ability to obtain information, seek advice and formulate an application or complete a return may have been delayed.
5. 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, ss 33E, 68CB(2) and 68CB(3).

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.