

OPERATIONAL STATEMENT

Income tax treatment of accommodation provided to employees

Issued: 10 June 2021

OS 21/01

Operational statements set out the Commissioner of Inland Revenue's view of the law in respect of the matter discussed and deal with practical issues arising out of the administration of the Inland Revenue Acts.

This statement is intended to clarify and simplify the tax rules around employer-provided accommodation.

All legislative references in this Statement are to the Income Tax Act 2007, unless specified otherwise.

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Background

Some employers provide accommodation for their employees. They may provide the accommodation directly or fund the cost of it - by paying the cost on behalf of the employee, by reimbursing the employee for the cost incurred, or by paying the employee an accommodation allowance.

Generally, where an employer incurs expenditure that gives rise to a private or domestic benefit to an employee in connection with their employment that expenditure is taxable to the employee. The provision of accommodation or the funding of the cost of accommodation is an example of this kind of expenditure.

The general rule where an employer provides accommodation (whether directly or by funding it) is that the employer must withhold and pay the resulting PAYE on the value of what the employee receives.

Despite this general rule, in specific circumstances accommodation related to an employee's role is exempt from tax.

This Statement deals with the tax treatment of:

- the provision of accommodation by the employer or the payment of an accommodation allowance to the employee;
- reimbursement by the employer of accommodation expenditure incurred by an employee (also known as expenditure on account).

The purpose of this Statement is to clarify when these circumstances apply and to assist in determining the amount of tax payable.

The Statement is divided into two parts: Part 1 covers when employer-provided accommodation will be taxable, and Part 2 covers how to calculate the resulting tax liability. Examples are provided throughout the statement to illustrate the outcome in different scenarios.

Employers often provide not only accommodation but also travel for their employees. These employers may find it useful to refer to the Commissioner's position on employer provided travel: *Operational Statement [OS 19/05: Employer-provided travel from home to a distant workplace – income tax \(PAYE\) and fringe benefit tax](#)* (Inland Revenue, 2019).

Summary of approach

1. In determining whether accommodation provided to an employee is taxable the following should be considered:

Does what is being provided to the employee fall within the definition of "accommodation" in the Act?

2. Some types of accommodation are specifically excluded from the definition such as a room, berth or other lodging provided on a mobile workplace such as a ship, a truck or an oil rig or accommodation provided in a remote location outside New Zealand. **If the accommodation is excluded, then it is not taxable.** (See the discussion from [7] to [12])

The second question is: Even if the accommodation is not excluded, do any of the exemptions apply?

3. Even if what is provided is within the statutory definition of "accommodation", it may still be exempt from tax if it falls into one of the expressly provided for exemption categories:
 - out-of-town secondments and projects;¹
 - ongoing multiple workplaces;²
 - meetings, conferences and training courses.³

See the discussion in [13] to [47].

4. Once it has been established that the accommodation provided is taxable, the value of the accommodation provided needs to be determined. Generally, the value of the accommodation is based on the market value of what is supplied, but specific rules may vary this. This is addressed in more detail from [48] onward.

¹ Section CW 16B.

² Section CW 16F.

³ Section CW 16D.

Application of this statement

5. This statement clarifies the Commissioner's existing position on the tax treatment of employer provided accommodation to an employee.

Definitions

6. In this Statement:
 - **Employer** includes a person, who, in connection with the employment or service of an employee of the employer:
 - provides accommodation for the employee; or
 - pays an amount for the employee's accommodation.
 - **Employer-provided accommodation** means:
 - accommodation an employer organises and pays for;
 - accommodation an employee organises but the employer pays for;
 - accommodation an employer reimburses an employee for; or
 - an allowance paid to an employee by their employer to cover the cost of accommodation.
 - **Home** means a dwelling the employee uses as their residence.
 - **Hometown** means the city or town where the employee's home is located.
 - **Workplace** means a particular place or base:
 - at which an employee performs their employment duties; or
 - from which an employee's duties are allocated.

This means that a workplace is not confined to premises of the employer but can also be any place from which the employee performs employment duties, which could be a client's premises.

- A **distant workplace** is a workplace that is not within reasonable daily travelling distance of the employee's home.

Part 1: Is taxable accommodation provided to the employee?

Is what is supplied to the employee “accommodation” under the Act?

7. Accommodation is defined in section CE 1(2) as including “board or lodging, and the use of a house or living premises (or part thereof), whether permanent or temporary”.
8. Ordinarily, “board or lodging” refers to the provision of the employee’s meals and somewhere to sleep.
9. What is considered accommodation under the Act is, therefore, quite broad, so all manner of living arrangements can fall within the definition. As discussed above accommodation includes both accommodation directly provided by the employer, paid for by the employer, or paid for by the employee (which is then reimbursed by the employer).

Example 1

Barbara, Karen and Vanessa all live and work in Wellington and are employees of an apartment developer. Their employer has just completed an apartment building. Three apartments in the building are still vacant. As a bonus to the employees for their good work, the employer offers each of them the right to live in their own apartment rent-free for 12 months.

Barbara moves into an apartment and lives there for 12 months.

Karen already has an apartment of her own. She asks if, instead of moving into one of the apartments, she could have money instead - to the value of the new apartment’s weekly rental. Her employer agrees and pays her that amount per week as an accommodation allowance.

By the time Vanessa decides whether she will take up the offer, all the remaining apartments have already sold. Vanessa decides to rent an apartment from one of the new purchasers, and her employer agrees to pay the rent to that owner on Vanessa’s behalf.

Each employee in this example has received accommodation from their employer for the purposes of the Act. The accommodation will be taxable to each employee to the value of the accommodation received.

10. As accommodation provided to employees is taxable income to them, their employer is typically obliged to withhold the tax payable on their behalf (like a salary and wage payment). Inland Revenue is aware that some employers choose to “gross up” these payments to the employee – in essence paying for the tax arising from the accommodation on the employee’s behalf instead of deducting the tax from the employee’s wages.
11. Some types of accommodation are explicitly excluded from the broad definition, and as a result are not subject to tax. These types of accommodation are:
 - a berth, room or other lodging provided on a mobile workplace such as a ship, truck or oil rig;⁴
 - a station in Antarctica;⁵
 - a room or lodging provided for shift workers such as fire-fighters, ambulance staff and caregivers when they are periodically required to sleep at their workplace and the accommodation is provided only for the duration of the performance of the duties;⁶
 - accommodation provided at remote locations outside New Zealand where an employee is expected to “fly in and fly out” such as mines in Australia;⁷ and
 - temporary accommodation provided to manage outbreak or spread of COVID-19.⁸
12. Flowchart 1 assists in determining whether the employer has provided accommodation that is excluded:

⁴ Section CE 1(2)(b)(i).

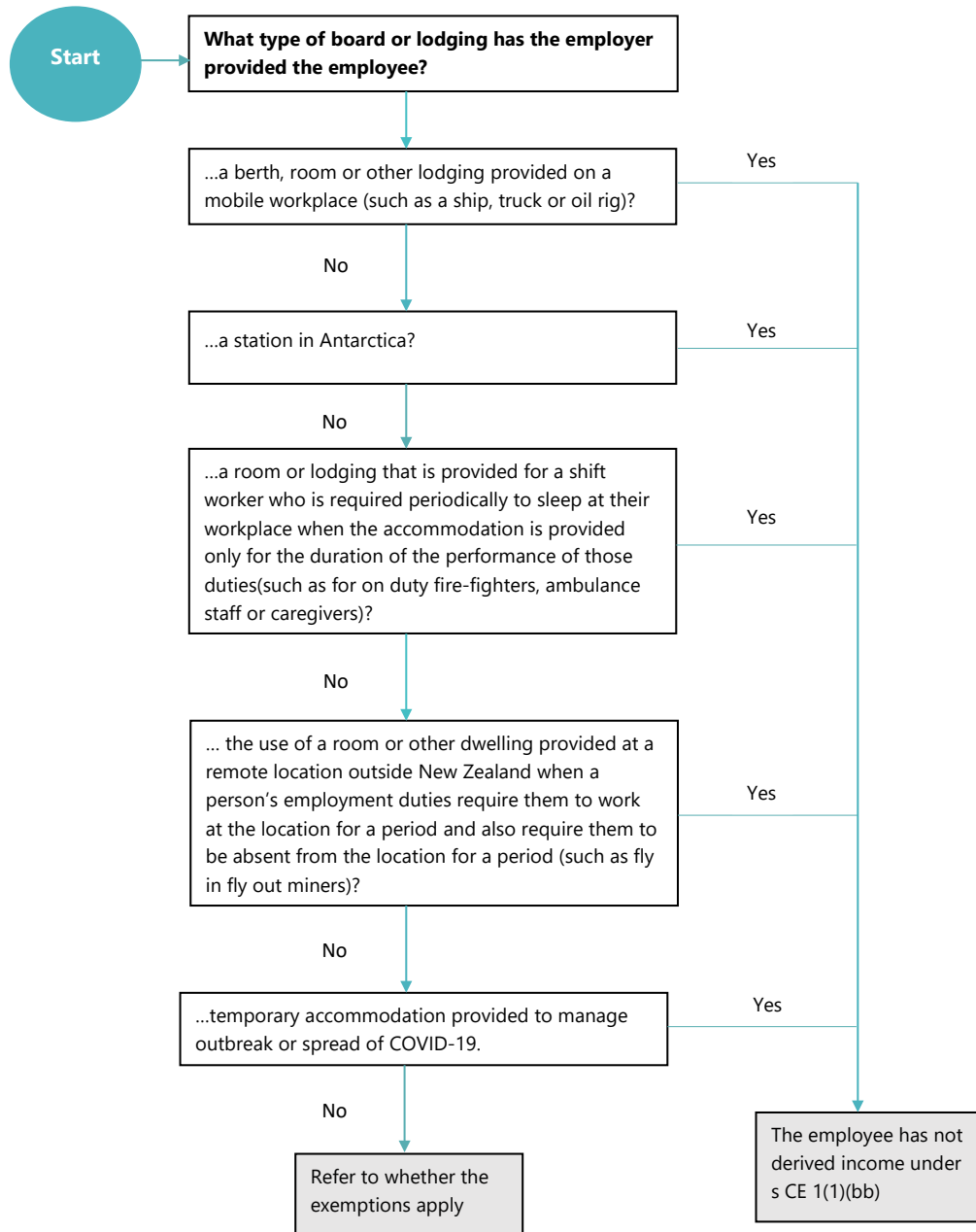
⁵ Section CE 1(2)(b)(iii).

⁶ Section CE 1(2)(b)(iii).

⁷ Section CE 1(2)(b)(iv).

⁸ Section CE 1(4) and the Income Tax (Employment Income—Meaning of Accommodation) Regulations 2021.

Flowchart 1: Determining whether the employer has provided accommodation that is excluded



Even if what is provided is accommodation, do any of the exemptions apply?

13. Certain types of employer-provided accommodation, which are included in the definition of “accommodation”, may still be exempt from tax. These exemptions fall into three broad categories:
- out-of-town secondments and projects (discussed from [15]);⁹
 - ongoing multiple workplaces (discussed from [39]);¹⁰
 - conferences and overnight stays (discussed from [43]).¹¹
14. It is important to note that none of these exemptions will apply if employer-provided accommodation is provided under an explicit salary trade-off arrangement (that is, if the employee opts to receive a lower salary than what they are otherwise entitled to in exchange for accommodation provided by the employer).¹² Accommodation provided under such an arrangement will be taxable income to the employee.

Employee accommodation – out-of-town secondments and projects (section CW 16B)

15. When an employee needs to work at a new work location that is not within reasonable daily travelling distance of their residence, employer-provided accommodation will be exempt from tax if:
- there is a reasonable expectation that the employee’s secondment to that work location will be for a period of two years or less, in which case the payment will be exempt for up to two years (discussed from [19]); or
 - the employee’s move is to work on a project of limited duration the principal purpose of which is the creation, enhancement or demolition of a capital asset and the employee’s involvement in that project is expected to be for three years or less; in which case, the payment will be exempt for up to three years (discussed from [22]); or

⁹ Section CW 16B.

¹⁰ Section CW 16F.

¹¹ Section CW 16D.

¹² Section CW 16B(2).

- the move is to work on Canterbury earthquake recovery projects; however, due to the passage of time since the Canterbury 2011 earthquake, this exception is now of limited application.

Definitions – residence and reasonable daily travelling distance

16. For any of the exemptions to apply, the employee must travel from their residence to a workplace and the workplace must be outside the reasonable daily travelling distance.
17. “Residence” is not defined in the Act, but the Commissioner considers that “residence” refers to the employee’s home immediately before the change in location and the distance test is assessed with reference to that residence and the travelling distance between that residence and the work location.
18. The Commissioner’s position on what she considers to be “reasonable daily travelling distance” was published in [“Guidance on a ‘reasonable daily travelling distance’”](#), *Tax Information Bulletin* Vol 21, No 9 (December 2009): 6. This guidance is also applicable to the accommodation exemptions.

Reasonable expectation that the secondment will be for two years or less

19. Where a reasonable expectation exists that the employee’s secondment to a workplace that is not within a reasonable daily travelling distance will be for a period of two years or less, the accommodation will generally be exempt from tax for the length of the secondment. This is illustrated in Example 2 below.
20. Reasonable expectation is considered at the time the secondment is entered into - how long each party expected the secondment to last when it started. Things that may be taken into account in terms of forming that expectation include the employee’s terms of employment or whether the expectation is captured in a written employment agreement or in some other way (for example, by way of communication between the parties). This is illustrated in Example 2.
21. The expectation could also be captured in other documents such as board minutes, planning documents, and correspondence with the third party for whom the employer is carrying out the project.

Example 2

Tahi lives in Auckland and is seconded to a job in Wellington for 12 months. Tahi’s employer agrees to meet her costs of living in Wellington. There is no

formal secondment agreement between the parties, but correspondence and other documentation clearly demonstrate how long the parties expect the secondment to be.

As the secondment is for two years or less (in this case, 12 months) any employer-provided accommodation at the distant location is not taxable.

Example 3

Liam lives and works in Auckland. He is an accountant who has worked for his employer for 10 years. The employer sends Liam to New Plymouth for three months to audit a large client. Liam pays for his stay in a hotel in New Plymouth, and his employer fully reimburses him for this cost.

As Liam's employer expects him to work in New Plymouth for a period two years or less, the payment that Liam receives as reimbursement for his accommodation costs in New Plymouth is not taxable.

Accommodation linked to long-term projects of limited duration

22. When an employee is required to work at a distant workplace in relation to a long-term project of limited duration, employer-provided accommodation can be exempt where a reasonable expectation exists that the employee will be working at a distant workplace on that project for a period of three years or less.
23. This period takes into account certain business practices, particularly in the construction industry. For example, employees might be housed at or near a construction site, might share accommodation, or might be employed on a "fly in, fly out" basis, so would not be relocating. Employees may be recruited from overseas with no intention that they ever relocate permanently to New Zealand.
24. Projects covered by this exemption are not limited to the construction industry, but may involve, for example, upgrades of existing infrastructure or information technology development and implementation.
25. The three-year period is the time the employee is involved in the project, not the length of the project itself (which may be longer). The reasonable expectation needs to exist when the employee commences work on the project.
26. The project must satisfy the following requirements:

- The project's main aim must be the creation of a capital asset, whether a new asset, a replacement of an existing asset, an upgrade, or refurbishment;
- The employee must be engaged exclusively on project work (bar incidental activities); and
- The project must involve work for a client that is not associated with the employer (the associated party rules in sections YB 1 to YB 16 apply).

Example 4

Helio is seconded by his employer to oversee project management on the initial stages of a dam construction project carried out by a client in a remote area of the North Island. Because of the scale of the project, the number of workers and the remoteness of the location, Helio's employer sets up an accommodation facility to house its employees working on the project, including Helio. The entire project is expected to take around seven years to complete, however Helio is only involved in the preliminary work. Both Helio and his employer expect Helio to work on the project for the first two and a half years.

Helio is working on a project involving the construction of a capital asset. Both he and his employer expect him to be working at the distant work location for three years or less. Therefore, the value of the accommodation provided to Helio is exempt.

Exemption for out-of-town secondments and long-term projects can cease to apply if circumstances change

27. Even if the employer-provided accommodation meets the requirements to be considered exempt, the accommodation can cease to be exempt if circumstances change. The accommodation will cease to be exempt if:
- the employer pays part of or all the costs associated with buying the employee a house in or near the new work location;
 - the employee's involvement in the secondment or project comes to an end; or
 - the expectation that the employee will only be at the new location for a maximum of two years or three years (whichever applies) changes so that the employee is reasonably expected that they will be at the distant workplace for longer.

28. From the point in time that the circumstances change as outlined above, any employer-provided accommodation will be taxable, but accommodation provided before that time will remain exempt. This is illustrated in Example 5:

Example 5

Fatima works for an employer in Auckland. Her employer sends her to work in Hamilton for an expected 18-month period. After four months, Fatima decides she wants to relocate permanently to Hamilton. Her employer agrees to make the job in Hamilton permanent and to pay Fatima an accommodation allowance for the first six months after her arrival in Hamilton.

For the first four months, the employer reasonably expected that Fatima would not be working in Hamilton for more than two years. Therefore, the payments to cover Fatima's accommodation for those first four months are exempt under the two-year rule. But now that Fatima is expected to be working in Hamilton for more than two years, any payments to cover her accommodation after the initial four months are taxable.

Expected period initially exceeds the time limit but subsequently reduces

29. If a secondment is initially expected to exceed the relevant two or three-year period, it will be subject to tax.
30. However, if this expectation changes and the total period will be less than the relevant time limit (two or three years as relevant), the employer-provided accommodation becomes exempt from the date the expectation changes. The employer-provided accommodation up to the date the expectation changes remains taxable – there is no retrospective exemption following the change in expectation. This is illustrated in Example 6.

Example 6

Raj lives in Napier. His employer sends him to Tauranga to set up and manage a new office. The initial expectation is that Raj will be in Tauranga for four years. Raj's employer provides him with accommodation in Tauranga. As the secondment is expected to be more than two years the accommodation will be taxable.

One year into the secondment, Raj's employer decides Raj only needs to stay in Tauranga for another six months as the company has found someone based locally to run the office on a permanent basis. As the expectation of the total secondment duration is now less than two years (18 months), the final six months of the accommodation provided to Raj are exempt from tax. The accommodation provided for the first 12 months, before the change in expectation, remains taxable.

New employees and out-of-town secondments and long-term projects

31. The exemptions described above for employer-provided accommodation generally apply in relation to existing employees. However, they can apply to new employees in specific instances.
32. New employees only qualify for the two-year exemption for secondments when:
 - the employee is newly recruited to work at a particular work location but is then temporarily sent to work at another work location (for example, an individual is recruited to work in Auckland but before starting in Auckland is sent to work in Dunedin for a month before returning to Auckland); or
 - an employee working for one employer is seconded to work for another employer on a temporary basis, with the expectation that the employee will return to work for the original employer (for example, an individual working for an Australian accountancy firm is sent to work for an affiliated New Zealand firm in Auckland for 18 months).
33. New employees qualify for the three-year exemption for work on a project of limited duration subject to the same conditions as existing employees.

Exceptional circumstances – extended exemption period

34. In exceptional circumstances, employer-provided accommodation can continue to be treated as exempt even though the employee continues to work at the distant workplace for longer than the two or three-year period in the exemption.
35. “Exceptional circumstances” are confined to those that are outside the control of the employer and employee, such as a natural disaster or medical emergency, with the result that the employee must stay at the work location. The employer-provided accommodation can continue to be treated as exempt for as long as the exceptional circumstance means the employee is unable to leave the work location.

Restarting the time period

36. For the purpose of determining whether a time limit for the exemption for secondments or projects applies, a break in a period of continuous work at a distant workplace may result in a restart of the time period. However, the break will be ignored if a reason that is more than incidental for the cessation of the employment or service at that location is to allow a further period of exemption.¹³

Relationship with the relocation payments rule

37. If an employee is not eligible for the above out-of-town secondments and projects exemption, they may still qualify for the accommodation exemption for up to three months after their arrival, under section CW 17B (tax-exempt relocation payments).
38. For a list of relocation expenses that are eligible under section CW 17B, see *Determination [Det 09/04 – Eligible relocation expenses](#)* (Inland Revenue, 2009). Relocation expenses include such things as the cost of removal and transport of household effects.

Employer-provided accommodation – ongoing multiple workplaces

Multiple workplace exemption

39. An employee may be required to work at more than one workplace on an ongoing basis. When this occurs, employer-provided accommodation that they receive in relation to working at a distant workplace (one outside a reasonable daily travelling

¹³ Section CW16C(6).

distance) is exempt from tax, without an upper time limit.¹⁴ This is illustrated in Example 7.

40. The multiple workplace rule can also apply when an employee is sent on a short-term business trip to another location. This is illustrated in Example 8.
41. In these circumstances, the employee will continue to have ongoing duties at their usual place of work while they are working at the distant work location during the business trip.

Example 7

Lucia manages two offices, one in Christchurch and one in Dunedin. She works in Christchurch two days a week and in Dunedin for three days a week. Her home is in Dunedin.

Lucia has more than one ongoing work location. When she works in Christchurch, she is beyond reasonable daily travelling distance from her home in Dunedin. An accommodation payment to cover her hotel costs when staying in Christchurch is exempt under the multiple workplace rule. Therefore, the Christchurch accommodation is not taxable.

Example 8

Carmen is chief executive of a large group of companies based in Auckland. The group has offices in several cities across New Zealand. Each month Carmen visits one of these offices as part of her management duties. Typically, these visits last up to a week, and Carmen's employer arranges and pays for her accommodation at a nearby hotel.

When Carmen is visiting the offices away from Auckland, she has more than one ongoing workplace for the duration of her visit. Therefore, the cost of her accommodation while working at those offices is exempt under the multiple workplace rule.

¹⁴ See section CW 16F.

Multiple workplace exemption does not apply to a home office

42. The multiple workplace exemption does not apply when the employee has two workplaces and one of those workplaces is a home office.¹⁵ Any accommodation provided to such an employee by their employer is taxable.

Employee-provided accommodation – meetings, conferences and training courses

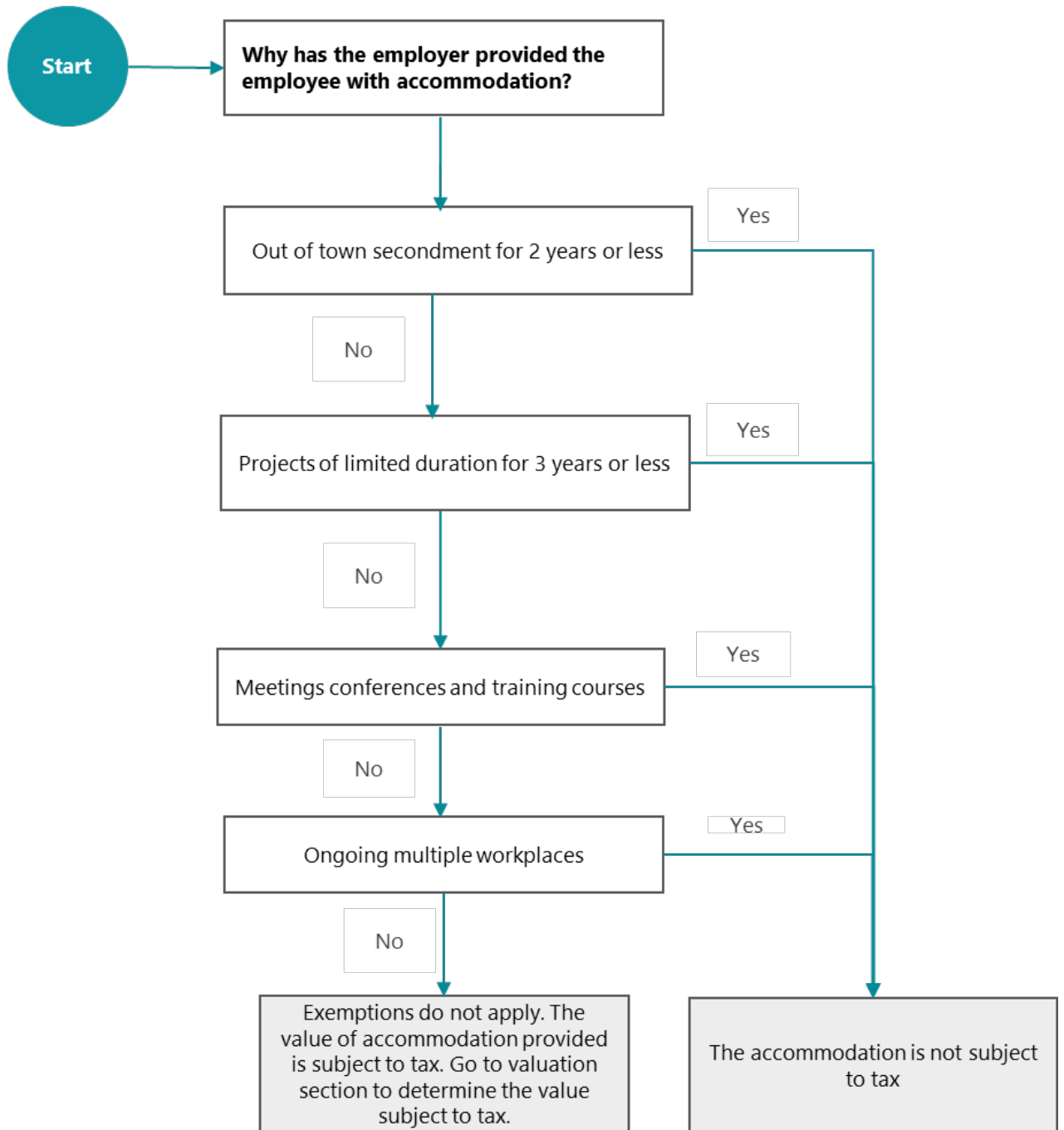
43. When an employee needs to attend a work-related meeting, conference or training course that requires at least an overnight stay, any employer-provided accommodation is exempt from tax without an upper time limit.¹⁶
44. While the need for accommodation would usually arise because the work-related meeting, conference or training course is beyond reasonable daily travelling distance from the employee's home, this need not be the case. Some courses may be held locally but may require employees to stay overnight for reasons such as networking and team building.
45. This exemption covers both local and distant accommodation situations. The definition of "period of continuous work" includes a period that the employee is required to stay in a location that is not distant from the employee's regular workplace.¹⁷
46. If a stopover is required in travelling to or from the location, accommodation at that stopover is also exempt.
47. Flowchart 2 summarises the above and assists in determining whether accommodation is exempt:

¹⁵ Section CW 16F.

¹⁶ Section CW 16D.

¹⁷ Section CW 16D(4).

Flowchart 2: Determining whether the accommodation is exempt



Part 2: What is the value of the accommodation subject to tax?

48. If accommodation is taxable, the next step is to determine the value (often referred to as the taxable value).

What are the general valuation rules?

Value where the employer physically provides employee accommodation

49. Where an employer physically provides employee accommodation the value of that accommodation is the market rental value.
50. The Commissioner broadly considers that market rental value refers to the amount that would be arrived at by two non-associated parties, on an arm's length basis, for the rental of the accommodation.
51. For guidance on estimating the likely market rental value of employer-provided accommodation, see *Commissioner's Statement CS [16/02: Determining "market rental value" of employer-provided accommodation](#)* (Inland Revenue, 2016), and with reference to employees of boarding schools: *Commissioner's Statement CS [18/01: Determining "market rental value" of employer-provided accommodation - Boarding Schools](#)* (Inland Revenue, 2018).

Value for accommodation allowance or payment of accommodation expenditure

52. Where an accommodation allowance or accommodation expenditure is paid by the employer (whether directly or by reimbursement to the employee), the market value is the amount paid. This amount may be varied by the adjustments discussed from [54].
53. Some providers of accommodation services (such as hotels, managed apartments, and short stay accommodation providers) offer accommodation to their clients in addition to other services that do not fall within the definition of accommodation under the Income Tax Act 2007. These additional services may include, for example, wireless internet access. The cost of these additional services are sometimes, but not always, itemised separately from the accommodation provided when the recipient is billed. Where the cost of these additional services are not separated out from the cost of the

accommodation provided by the service provider, the Commissioner takes a pragmatic approach and would treat the benefit received from these additional services as part of the accommodation received.¹⁸

Adjustments to the taxable amount

54. Once the market value has been determined, several factors may result in adjustments being made before the taxable amount is determined:
- Rent paid by the employee: If an employee pays rent on the accommodation provided, the amount of rent paid should be subtracted from the market value to determine the taxable value. (See [55].)
 - Business or work use: Where a portion of the premises is used for work by the employee (for the employer that provides the accommodation), a pro-rated adjustment may be made to reflect that. The taxable value will be the portion of the premises used by the employee for accommodation only. (See from [56].)
 - Shared accommodation: An adjustment is allowed when two or more employees share accommodation. (See from [58].)
 - Overseas accommodation: The taxable value of employer-funded accommodation provided to employees as part of an overseas posting is capped at the average or median rental value for accommodation in the vicinity where the employee would have lived if in New Zealand.¹⁹ This cap, which is of significance to employees who remain tax resident in New Zealand, recognises that the market rental value of accommodation in overseas locations can be disproportionately high compared with the value of accommodation that an employee might occupy if working in New Zealand (see from [60]).
 - Ministers of religion: A specific valuation rule applies to accommodation supplied by religious bodies to their ministers (see from [67]).²⁰

¹⁸ For clarity – where the costs of non-accommodation services are itemised separately from the cost of accommodation provided, the tax treatment of the non-accommodation services must be considered on their own facts.

¹⁹ Section CE 1C.

²⁰ Section CE 1E. Section CE 1D also provides rules for calculating the market value of accommodation where accommodation is physically provided by the New Zealand Defence Force, but this will not be covered in any detail in this Statement.

Rent paid by the employee

55. The taxable value should be reduced by the amount of any rent that the employee pays for that accommodation. This is illustrated in Example 9.

Example 9

As part of Michael's salary package, his employer agrees to pay his accommodation costs in Auckland up to a value of \$500 per week. Michael finds an apartment that he likes, but the weekly rent is \$700 per week. His employer agrees to pay the rent to that value, on the basis that Michael pays the \$200 difference to his employer.

The taxable value of the accommodation that Michael receives in this example is \$500 per week, as the \$200 per week rent that he pays to his employer is deducted from the taxable value of the accommodation received.

Work use of accommodation

56. If part of the accommodation provided is used for work purposes, the taxable value is accordingly reduced on a pro-rata basis. To qualify, a clearly identifiable part of the accommodation needs to be used "wholly or mainly" for work purposes related to the employee's employment (with the employer providing the accommodation). That portion of the premises does not need to be used solely for work purposes to meet the "wholly or mainly" test, but it must at least be used predominantly for work purposes and its primary purpose must be work related.
57. The deduction is determined by apportioning between the business and private use of the accommodation. This is illustrated in Example 10. Any non-work-related use will be ignored, if it is temporary, sporadic or otherwise minor (such as using an office for checking personal emails or a family member occasionally using it for personal projects).

Example 10

Miha works as a dental assistant. Her employer provides her with accommodation that has a market rental of \$500 a week. Miha has set up one bedroom in the property as a workspace to make dental impressions. It is usually used as a workspace, but it also has a sofa bed. On occasion, when Miha has house guests, the sofa bed is used as a bed for the guest to sleep.

The use of the space as an occasional sleeping area for guests is ignored as it is temporary and sporadic – it is wholly or mainly used as a workspace. As the workspace is one-tenth of the total floor area of the accommodation, \$50 is deducted from the rent paid, with the result that the taxable value is \$450 per week.

Shared accommodation – apportionment of taxable value

58. Generally, when two or more employees share accommodation provided by their employer, the taxable amount is still the market rental value - the issue is only one of apportionment between the employees.
59. The amount may be apportioned equally between the employees or, if the employer and employees agree, apportioned between the employees on a different basis (for example, based on bedroom size). This is illustrated in Example 11.

Example 11

George and Tana work for a start-up in Wellington. Their employer rents a \$400 per week two-bedroom property for them to live in.

Tana manages to pick his bedroom first and chooses the bigger of the two rooms.

The market rental value of the property is \$400 per week. As Tana has a bigger room than George, they agree with their employer that the value of the accommodation will be split on a 60:40 basis – the taxable value of the accommodation received by Tana will therefore be \$240 per week, and by George will be \$160 per week.

Accommodation provided to employees working overseas – exception to the general rules

60. An exception to the general valuation rules is for accommodation provided to employees working overseas. This exception allows the use of a New Zealand–equivalent-based value for the market value rather than the market value of the actual overseas accommodation provided.²¹
61. In establishing the value of an equivalent New Zealand property, it is necessary to consider where the employee would likely be working for the employer at the overseas location, the equivalent accommodation the person would likely occupy if living in New Zealand, and the average or median market rental values at or near that equivalent work area.
62. What is received overseas is only relevant if the rental value of the overseas accommodation is less than the average or median market rent of the equivalent New Zealand accommodation. In those circumstances, the value used for tax purposes is the rental value of the overseas accommodation. This is illustrated in Example 12.

Example 12

Zoe is seconded by her employer to work at its site in Brussels for three years and is provided with a flat for the duration of her secondment. The rent the employer pays is equivalent to \$50,000 a year. Zoe would work in central Wellington if working in New Zealand and would be likely to be living in a two-bedroom apartment with her partner in central Wellington where an average annual rental value would be \$24,000.

The market value of the accommodation Zoe receives is therefore the cost of the accommodation that she would have had in Wellington, not the value of the equivalent accommodation in Brussels. As a result she is taxed on an accommodation value of \$24,000 per year.

63. In establishing the comparable New Zealand property, a relevant factor is the number of family members in the employee's household in the overseas location, their ages (adults and children) and their living requirements.
64. For example, if an employee has a household of four but goes on secondment overseas while their family remains behind, their New Zealand equivalent

²¹ The New Zealand equivalent value can also be used for determining the taxable value of an allowance or amount paid for or towards the provision of the accommodation.

accommodation will be determined based on what accommodation they would be likely to occupy as a person living alone. Equally, if their spouse joined them but not their children, the equivalent accommodation would be the accommodation that they would be likely to occupy as a couple rather than as a family of four. This is illustrated in Example 13.

Example 13

Jo is seconded by her employer to Jakarta for three years and is provided with an apartment in central Jakarta for the duration of her secondment. The rent her employer pays is equivalent to \$25,000 a year. Jo would normally work in central Wellington if working in New Zealand and live in a five-bedroom house in Tawa with her adult children.

Jo's children are settled at university and value their independence, so as a family they decide that Jo will go to Jakarta by herself, while her adult children will remain behind and maintain the house in Tawa.

Therefore, Jo only needs a small apartment in Jakarta as she will be the only occupant. As a result, the market value of the accommodation Jo receives is the equivalent of a small apartment close to central Wellington.

The cost of the equivalent apartment in Wellington would cost \$35,000 a year. As this value is more than the value of the accommodation she is receiving in Jakarta, the taxable amount is the value of the Jakarta accommodation – \$25,000 per year.

65. If the employee's role in New Zealand can be performed in more than one location in New Zealand, an average of the multiple locations can be used to determine the New Zealand equivalent accommodation. If the employee's role in New Zealand can be performed anywhere in New Zealand, a New Zealand wide valuation can be used. Either the average or the median market rental value for the whole of New Zealand can be used. This is illustrated in Example 14.

Example 14

Anahera works as a software developer for a company based in Auckland and Wellington. Four months ago, her employer agreed for her to move from Wellington to Katikati to trial working remotely. Following a successful trial, her employer agrees that Anahera's position can be performed from anywhere in New Zealand.

Anahera then secures a two-year secondment to work for the company's new office in Reykjavik, Iceland. Due to differences in time zones, this work requires her to be permanently based in Reykjavik.

As part of her secondment, Anahera receives accommodation for her and her two children, who will join her in Reykjavik, to the value of \$50,000 per year.

To calculate the New Zealand equivalent, the average cost of accommodation in New Zealand as a whole is used, because Anahera's role in New Zealand can be performed anywhere in New Zealand. This would be approximately \$26,000 per year for Anahera and her two children. This is less than the amount she receives from her employer for accommodation in Reykjavik. As a result, the amount that the equivalent accommodation would cost her in New Zealand (\$26,000 per year) is the taxable value of the accommodation.

66. There are a range of sources available to help determine average or median market rental values. For example, the Tenancy Services website, which provides market rental statistics: <https://www.tenancy.govt.nz/rent-bond-and-bills/>.

Accommodation provided by religious bodies to ministers of religion

67. The value of accommodation supplied to ministers of religion is determined under section CE 1E.²² A long-standing administrative practice had previously capped the value of church-supplied accommodation at 10% of a minister's stipend. This practice was incorporated into the legislation with effect from 1 April 2015.
68. A "minister of religion" is defined in the Act as a person:
- who is ordained, commissioned, appointed, or otherwise holds an office or position, regardless of their title or designation, as a minister of a religious

²² This specific valuation rule only applies to accommodation physically provided by the church. In all cases (for example, an accommodation allowances or reimbursement) the general valuation rules apply.

denomination or community that meets the charitable purpose of the advancement of religion;

- whose duties are related mainly to the practice, study, teaching, or advancement of religious beliefs; and
- whose accommodation is used as an integral part of performing their duties.

69. The requirement that a minister's church-provided accommodation is used as an integral part of performing the minister's duties will be met as long as there is an expectation underlying a minister's pastoral duties that some church members might visit their home, irrespective of whether any visits happen in practice. Therefore, ministers do not need to record whether visits happen to satisfy this requirement.
70. The amount of income arising to a minister from accommodation provided to them is calculated using the following formula:²³

remuneration × (1 – adjustment) + excess rental

Where:

remuneration is 10% of the remuneration that the minister receives from the religious society or organisation for the income year for the performance of their duties as a minister

adjustment is the value of the accommodation that is apportioned to work-related use, expressed as a decimal fraction of the total value of the accommodation. To be eligible for apportionment, the minister needs to use the relevant part of the accommodation wholly or mainly for work purposes. For example, if the minister uses 10% of the accommodation wholly or mainly for work purposes, the value of the adjustment would be $(1 - 0.1) = 0.9$. If more than one minister of religion lives in the accommodation, the adjustment is apportioned equally between them

excess rental is the difference between the received accommodation's market rental value and the market rental value of accommodation that is reasonably commensurate with the duties of the person as a minister and for the location in which they perform their duties. The amount of excess rental cannot be less than zero for the purpose of the calculation.

This is illustrated in Example 15.

71. However, no adjustment is allowed simply because ministers of religion share accommodation. The value of the employer-provided accommodation is calculated

²³ Section CE 1E(2).

with reference to the employee (or employees) who receives the accommodation as part of their work.

72. If the accommodation is provided for only part of the year, the calculations of the value are with reference to that part of the year.

Example 15

Anareia is an ordained parish priest for the Anglican Church. She serves her parish in the East Cape region. Along with of her stipend of \$60,000 per year, the church provides her with accommodation in a three-bedroom house in Ruatoria.

Anareia uses one large bedroom as an office to meet with visiting parishioners. The value of the room (based on floor area) is about 15 percent of the total value of the property.

The value of the accommodation provided to Anareia is \$16,000 per year. This is commensurate with her duties as minister and for the location where she is based. As a result, the "excess rental" for the purposes of calculating the value of the accommodation received is nil.

The value of her accommodation received is therefore:

$$\$6,000 \text{ (being 10\% of her annual stipend)} \times (1-0.15) + 0 = \mathbf{\$5,100.}$$

73. This exemption does not apply to an accommodation allowance or reimbursement received by a minister of religion. The ordinary rules for calculating the value of an accommodation allowance or reimbursement apply.
74. It is important to note that the definition of "minister of religion" specifically excludes a member of a religious society or order referred to in section CW 25. Section CW 25 provides for an exemption for board and lodging provided to members of religious societies and orders whose sole occupation is service in a society or order and who are not paid for their service. This exclusion does not apply to a minister of religion who receives a stipend (and is therefore paid) for their service.

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