

**RULINGS > PRODUCT****Bank of New Zealand**

Issued: 11 August 2021

**BR Prd 21/05**

The Arrangement is the redemption of Flybuys Points for a contribution to a KiwiSaver account in a KiwiSaver scheme that Bank of New Zealand (BNZ) has established (*the BNZ KiwiSaver Scheme*). Under an agreement between BNZ and Loyalty New Zealand Limited (*Loyalty NZ*), persons who are members of the Flybuys loyalty programme can request the redemption of their Flybuys Points for a contribution to their own, or another person's, account in the BNZ KiwiSaver Scheme.

**START DATE – END DATE**

{01/03/2021 – 31/03/2026}

(THIS TITLE PAGE DOES NOT FORM PART OF THE RULING.)

## Product Ruling – BR Prd 21/05

This is a product ruling made under s 91F of the Tax Administration Act 1994.

### Name of person who applied for the Ruling

This Ruling has been applied for by Bank of New Zealand.

### Taxation Laws

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

This Ruling applies in respect of sections BG 1, CA 1(2), CB 4, CC 3, CE 1 and CP 1.

This Ruling does not apply if there is an employment relationship between the Flybuys member who redeems their Flybuys Points for a contribution and the BNZ KiwiSaver member who receives the contribution.

This Ruling does not apply if there is a contract for services (i.e. independent contractor relationship) between the Flybuys member who redeems their Flybuys Points for a contribution and the BNZ KiwiSaver member who receives the contribution.

This Ruling does not apply to a Flybuys member who accrues Flybuys to a Flybuys business account.

### The Arrangement to which this Ruling applies

The Arrangement is the redemption of Flybuys Points for a contribution to a KiwiSaver account in a KiwiSaver scheme that Bank of New Zealand (BNZ) has established (*the BNZ KiwiSaver Scheme*). Under an agreement between BNZ and Loyalty New Zealand Limited (*Loyalty NZ*), persons who are members of the Flybuys loyalty programme can request the redemption of their Flybuys Points for a contribution to their own, or another person's, account in the BNZ KiwiSaver Scheme. To request the redemption of Flybuys Points a person does not have to be a customer of BNZ. As a separate and independent obligation under an agreement between BNZ and Loyalty NZ, BNZ will make a payment to Loyalty NZ for each contribution Loyalty NZ makes to a member's account in the BNZ KiwiSaver Scheme.

Further details of the Arrangement are set out in the paragraphs below.

## KiwiSaver Act 2006

- 1) The KiwiSaver regime, which started on 1 July 2007, is a voluntary work-based saving scheme established to facilitate individuals' savings habits, principally through the workplace. Savings are primarily for retirement and are "locked in" until the age of eligibility for New Zealand superannuation (which is currently 65 years old), although exceptions can be made in certain cases such as financial hardship.
- 2) As stated in section 3 of the KiwiSaver Act 2006, the purpose of KiwiSaver is to:
  - a) encourage long-term savings habits and asset accumulation by individuals who may not otherwise enjoy standards of living in retirement similar to those enjoyed before retirement; and
  - b) increase individuals' well-being and financial independence particularly in retirement and provide retirement benefits.
- 3) Inland Revenue administers Parts 1 to 3 of the KiwiSaver Act 2006. The Commissioner of Inland Revenue oversees the provisions of the KiwiSaver Act 2006 that Inland Revenue administers. Among other administrative functions, Inland Revenue collects contributions from employers as part of the PAYE rules, and pays contributions to providers of KiwiSaver schemes.

## The Bank's KiwiSaver Scheme

- 4) BNZ operates the BNZ KiwiSaver Scheme.
- 5) The BNZ KiwiSaver Scheme was established by trust deed, and set up as a portfolio investment entity (*PIE*). The manager/issuer of the BNZ KiwiSaver Scheme is BNZ Investment Services Limited (which is a wholly owned subsidiary of BNZ). As at the date of this application, the registrar, supervisor and custodian, and scheme accountant are Trustees Executors Limited, The New Zealand Guardian Trust Limited and MMC Limited respectively. The BNZ KiwiSaver Scheme is registered with the Financial Markets Authority, and is open to customers who are natural persons who may join the Scheme by filling out the relevant application form.
- 6) Customers can elect for employee and employer contributions to be made to any one of the six funds within the Scheme, being:
  - the Cash Fund (comprising 100% income assets);
  - the First Home Buyer Fund (comprising 85% income assets and 15% growth assets);
  - the Conservative Fund (comprising 80% income assets and 20% growth assets);

- the Moderate Fund (comprising 60% income assets and 40% growth assets); and
  - the Balanced Fund (comprising 40% income assets and 60% growth assets);
  - the Growth Fund (comprising 20% income assets and 80% growth assets).
- 7) It is possible that additional funds could be established within the BNZ KiwiSaver Scheme from time to time, pursuant to and in accordance with the terms of the Governing Document.

## **Flybuys programme**

- 8) Flybuys is administered by Loyalty NZ, which is owned in equal shares by BNZ, Foodstuffs Ventures (NZ) Limited, IAG New Zealand Limited, and Z Energy Limited.
- 9) Any person can become a Flybuys account owner by completing an appropriate application form. Membership is free. Under the terms and conditions established by Loyalty NZ, Flybuys Points are agreed to have no value and cannot be sold, transferred, or assigned for cash or other consideration. Additionally, Flybuys Points cannot be redeemed for or refunded in cash. Any Flybuys Points that are awarded but unused expire after 36 months. The terms and conditions of the Flybuys loyalty programme do not prohibit the points being redeemed for any particular reward or class of rewards. Once redeemed, a reward could (as a subsequent and separate transaction) be sold, transferred or assigned for cash or other consideration.
- 10) Once a person is a Flybuys account owner, they "collect" Flybuys by purchasing goods or services from participating reward partners (Partners). Loyalty NZ and Partners agree on the number of Flybuys that may be awarded to account owners by Loyalty NZ. For example, 1 Flybuys may be awarded to an account owner for every \$25 (or some other amount) spent with the Partner.
- 11) Members can choose to be rewarded in one of three ways, referred to as "reward currency":
- a) Flybuys Points;
  - b) Z & Caltex Fuel Discounts; and
  - c) New World "Dollars".
- 12) For a member who has chosen Flybuys Points as the reward currency, once sufficient Flybuys Points have been collected the account owner may redeem the Flybuys Points for specified rewards, being goods and services provided by Partners or other third parties that have entered into an agreement with Loyalty NZ to provide such rewards. The account owner contacts Loyalty NZ to request a redemption of their Flybuys

Points, and Loyalty NZ contacts the relevant Partner or other reward provider to arrange the reward to be provided to the account owner. At Loyalty NZ's option, rewards are posted or delivered to the address of the account owner, or made available for collection at a location notified to the account owner.

- 13) For members choosing Z & Caltex Fuel Discounts or New World Dollars as their reward currency, Flybuys convert into the relevant discounts/dollars and are used when purchasing fuel or groceries as relevant.

### **Flybuys and contributions to the BNZ KiwiSaver Scheme**

- 14) BNZ has integrated a Flybuys feature into the BNZ KiwiSaver Scheme.
- 15) Under an agreement between BNZ and Loyalty NZ, members in the Flybuys programme (Flybuys member) can redeem their Flybuys Points for a contribution to their own, or another person's, account in the BNZ KiwiSaver Scheme (BNZ KiwiSaver member). Where Flybuys members redeem their Flybuys Points for a contribution to another person's BNZ KiwiSaver account, the contribution will be a gift from the Flybuys members to the other persons.
- 16) In the case of a request to redeem Flybuys Points for a BNZ KiwiSaver contribution, the Flybuys account owner contacts Loyalty NZ and requests the redemption of a specified number of Flybuys Points for a contribution of a specified amount to a nominated BNZ KiwiSaver account.
- 17) Loyalty NZ then provides details of the BNZ KiwiSaver member that is receiving the contribution reward and the dollar amount of the reward to BNZ. Loyalty NZ pays the money into the BNZ KiwiSaver Scheme subscriptions account. This is in turn applied to the member's KiwiSaver account and to the fund they have selected.
- 18) As a separate and independent obligation, BNZ will make a payment to Loyalty NZ in relation to each contribution made by Loyalty NZ to a member's account with the BNZ KiwiSaver Scheme. The contributions to the BNZ KiwiSaver account arising from the redemption of Flybuys Points are treated no differently to any other employee or employer KiwiSaver contribution.
- 19) A BNZ customer's membership of the Flybuys programme is contractually separate to their agreement (if any) relating to their investment in the relevant KiwiSaver fund, and each arrangement exists independently of the other.

## BNZ's objectives

- 20) BNZ's goals and objectives in integrating the Flybuys feature into the BNZ KiwiSaver scheme are to:
- increase customer benefits, satisfaction and customer retention;
  - encourage retirement savings by providing an innovative savings solution to its customers; and
  - improve BNZ's brand awareness among the public, so BNZ is seen as a market leader.

## How the Taxation Laws apply to the Arrangement

The Taxation Laws apply to the Arrangement as follows:

- (a) No income arises under section CA 1(2) for a BNZ KiwiSaver member in relation to the Arrangement.
- (b) No income arises under section CB 4 for a Flybuys member or for a BNZ KiwiSaver member in relation to the Arrangement.
- (c) No income arises under section CC 3 for a BNZ KiwiSaver member in relation to the Arrangement.
- (d) No income arises under section CE 1 for a BNZ employee in relation to the Arrangement.
- (e) No income arises under section CP 1 for a BNZ KiwiSaver member in relation to the Arrangement.
- (f) Section BG 1 does not apply to the Arrangement.

## The period or income year for which this Ruling applies

This Ruling will apply for the period beginning on 1 April 2021 and ending on 31 March 2026.

This Ruling is signed by me on the 11<sup>th</sup> day of August 2021.

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**Jessica Griffin**

Group Lead, Customer Compliance (Significant Enterprises)

## About this document

Product rulings are binding rulings on how the tax law applies to a particular "product", which is an arrangement that is likely to be entered into with a number of people on identical terms.