



**INLAND REVENUE DEPARTMENT**

# **PUBLIC INFORMATION BULLETIN**

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## KNOW-HOW PAYMENTS AND ROYALTIES FROM NEW ZEALAND HOW THEY ARE TAXED

Some sections of the Land and Income Tax Amendment Act 1964 have wide application to dividends, interest, royalties and know-how payments flowing from New Zealand to overseas residents.

### Know-how Defined For First Time

For many years there has been legislation dealing with dividends, interest and royalties in our tax, law, but this is the first time the Tax Act has defined know-how payments and when they will be assessable to New Zealand tax. This new legislation follows the growing trend overseas to tax know-how payments in the country from which made.

### In This Article

The purpose of this article is to -

- set out the duty of persons in New Zealand making royalty or know-how payments to deduct non-resident withholding tax;

AND

- give advice on claiming expenses against such payments.

### Four Points

In considering this subject, four basic points should be kept in mind.

- The legislation which deems royalties and know-how payments to be assessable income in certain circumstances. Section 88 (e) and 88 (ee) of the Land and Income Tax Act 1954 are relevant.
- The circumstances when royalties and know-how payments have a source in New Zealand. Section 167 (11) covers this point which is important because under section 165 (2) a non-resident is liable for New Zealand tax only on income which has a source in this country.
- Non-resident withholding tax at a flat rate of 15 per cent is payable on gross payments to non-resident for both royalty and know-how. However, when a payment for know-how alone is wholly covered by deductible expenditure of the payee applicable to the payment, the know-how is not assessable income and there is no liability for withholding tax.
- The 15 per cent on the gross is final for "cultural" royalties. Additional tax will be payable on "industrial" royalties and know-how payments if tax assessed in an annual assessment on the net amount after deducting expenses exceeds the withholding tax. Any other income is also included in the annual assessment.

There are more details on these points in the following paragraphs and in the charts on pages 7 and 8

KNOW-HOW PAYMENTS AND ROYALTIES FROM NEW ZEALAND (Continued)

**WHEN ROYALTIES AND KNOW-HOW PAYMENTS ARE ASSESSABLE**

These are defined in The Tax Act as follows -

- Royalty Payments** - All royalties or other like payments dependant upon production from or the use of any real or personal property, whether or not they are instalments of the purchase price of any property. Section 88 (e).
- Cultural Royalties** - A payment of the type mentioned in section 88 (e) which is for the use, production or reproduction of, or for the privilege of using, producing or reproducing a literary, dramatic, musical or artistic work in which copy right subsists. Section 203 z.
- Know-how Payments** - All payments for the supply, in connection with the carrying on of a business, of scientific, technical, industrial or commercial knowledge, information or assistance, not being payments which are wholly reimbursement of deductible expenditure of the payee Section 88 (ee).

The definition of know-how includes payments whether paid in a lump sum or periodically, in the wide field of commercial knowledge, information or assistance. It applies to payment made to New Zealand residents and to non-residents as from 1 April 1964. The definition would embrace for instance payments for -

- the supply or use of
  - a formula, secret process, or design;
  - publicity, instructional or marketing material;
- research, administration and accountancy services;
- instruction on how to install, operate, and maintain machinery;
- information on sales promotion.

but not payments for, -

- brokerage or insurance commission for work done overseas;
- personal services performed overseas by an agent or employee;
- internal transfer or credit given by a branch in New Zealand to its head office overseas. However, the deduction allowable against the branch profits liable to New Zealand tax will be limited to the branch proportion of expenses actually incurred.

**WHEN ROYALTIES AND KNOW-HOW PAYMENTS HAVE A SOURCE IN NEW ZEALAND**

Royalty and know-how payments have a source in New Zealand when -

- paid by a resident in New Zealand unless paid in respect of a business carried on outside New Zealand.
- paid by a person not resident in New Zealand and are deductible in working out his New Zealand income.
- The new source in New Zealand rules apply as from 1st April 1964.

## KNOW-HOW PAYMENTS AND ROYALTIES FROM NEW ZEALAND (Continued)

From 26 June 1964 royalty and know-how payments having a source in New Zealand and paid or credited to non-resident companies are liable for non-resident withholding tax. Special circumstances apply when royalties are paid or credited to British companies during the period 26 June 1964 to 31 March 1965. These are explained in another article in this Bulletin

To individual non-resident taxpayers the non-resident withholding tax will first apply to payments made or credited to them after 31 March 1965.

### WHEN WITHHOLDING TAX SHOULD BE DEDUCTED

#### Apportionment

Payments may be for combination of industrial royalties and know-how. If so, it is important to note the effect of section 88A - inserted by section 12 of the 1964 Amendment Act. Under this section the Commissioner *may* apportion a payment when it is *partly* for *know-how* and *partly* for any other purpose for instance, to cover a royalty. The section does not permit a payment made exclusively for know-how to be apportioned between the amount reimbursing expenses and the profit or income content of the payment.

#### Payment Exclusively For Know-how

- If the non-resident recipient is able to certify that the deductible outgoings incurred in supplying the know-how are equal to or in excess of the gross payment, the payment is not income and not liable to withholding tax.
- If the non-resident recipient is unable to certify that the payment is *wholly* a reimbursement of expenditure the 15 per cent withholding tax is levied on the gross payment without a deduction for expenses.
- When a non-resident claims that a payment for *know-how* is wholly covered by deductible expenses, the local Tax Office will require, in the first instance, a certificate to that effect from an overseas auditor or chartered accountant. The certificate will, in clear cut cases, be accepted for several subsequent years provided the circumstances are unchanged

#### Payment Exclusively A Royalty

- The gross payment is liable to withholding tax at 15 per cent. The provision which exempts a know-how payment that is wholly reimbursing does not extend to a payment for royalty. Although revenue outgoings applicable to the royalty may in an extreme case exceed the gross payment, it is still liable to withholding tax.

#### Payment Partly For Know-how And Partly For Royalty

- If necessary, an apportionment can be made under section 88A. This will be unnecessary when revenue expenses incurred in supplying the know-how are less than the know-how part of the payment. In these circumstances the 15 per cent withholding tax is payable on the total gross payment because the know-how part is not wholly reimbursing. If the know-how part is wholly covered by deductible expenses, the 15 per cent withholding tax is only payable on the royalty part of the gross payment.

KNOW-HOW PAYMENTS AND ROYALTIES FROM NEW ZEALAND (Continued)

**MINIMUM TAX OR ANNUAL ASSESSMENT**

The 15 per cent withholding tax on the gross payments of industrial royalties and know-how is, generally, a minimum tax. Additional tax will be payable after the end of the financial year in which the royalties and payments were derived if tax assessed at annual rates on the net income after allowing deductible expenses exceeds the 15 per cent withholding tax.

Here is an example -

Gross payment	£4,000
less expenses	£1,000
Net income	<u>£3,000</u>
Withholding tax on gross payments	<u>£600</u>
Annual tax on net income	<sup>1125</sup> £1,012.10.0
less credit for withholding tax	£ 600. 0. 0
Payable in annual assessment	<u>£ 412.10.0</u>
	<u>525</u>

**Issue Of Assessments: Responsibility of Agents**

The records of non-residents and the issue of assessments will be handled by the Absentee Assessment Centre in the Department's Dunedin office.

The initial responsibility of the payer is to deduct and account for withholding tax. Payment of any further tax assessed after the end of the year is primarily the responsibility of the non-resident recipient. He may appoint an agent to act for him or the payer, as a subsidiary of a non-resident company, may act as agent. The Commissioner may give notice to any payer that he will thereafter be responsible as agent for filing returns and paying the tax assessed.

Assessments may therefore be issued in New Zealand to the appointed agent, the New Zealand subsidiary company or the payer once he has been notified by the Commissioner. It is desirable for practical reasons that the payer establish his position with both the non-resident and the tax office so that he may make arrangements if necessary for payment of any further tax due.

**Arbitrary Allowances For Expenses**

It is recognised that overseas recipients may find it difficult to give full details of the expenses applicable to royalties, know-how and similar payments from New Zealand. To help these people the Commissioner will allow, as a minimum deduction in an annual assessment, the following percentages for expenses without supporting claims -

Nature of payments	Percentage allowable
1. Trade mark	25%
2. Patent	35%
3. Know-how	50%
4. Any combination of 1 or 2 above with 3	40%

## KNOW - HOW PAYMENTS AND ROYALTIES FROM NEW ZEALAND (Continued)

### Claims For Actual Expenses

If it is considered that actual expenses exceed the arbitrary allowance, a tax return, giving details to support the claim for the higher deduction, should be sent in on behalf of the overseas recipient. In the first instance it would be desirable for the claim to be supported by a certificate from an overseas auditor or chartered accountant setting out the amount and how it is arrived at.

The expenses of a non-resident in the production of industrial royalties and know-how from New Zealand may include in addition to actual expenses in New Zealand, the New Zealand proportion of -

- the expenses incurred in developing or acquiring the trade mark, patent, or know-how

AND

- administration and other overhead expenses.

The amount for development or acquisition will generally follow the treatment of such expenditure in the books of the non-resident recipient.

If expenditure on new or continuing research is charged direct to revenue accounts each year the New Zealand proportion may be claimed, even though the patent or knowledge used in New Zealand may have been developed some time in the past.

On the other hand if the original expenses were capitalised, the amount allowable would be the New Zealand proportion of the amount written off during the year.

### Expenses Relating To Know-how Payments

#### When Payment Is Reimbursing

When it is established that the payment for know-how is wholly reimbursing to the payee, there is no liability to deduct withholding tax. This will arise, for example, when the payment represents no more than reimbursement of -

- administration and head office overhead expenses for management and technical assistance to a subsidiary company trading in New Zealand;
- the actual salary of a technician supplied under an agreement and paid by the non-resident, plus an agreed and reasonable percentage to cover overheads.

●

#### When Expenses Exceed The Payment

The expenses may exceed the payment or that part of a lump sum payment relating to know-how.

- If the payment is for know-how alone, consideration will be given to carry forward the excess. It will be included with the expenses of the following year to determine whether the payment for that year is wholly reimbursing and therefore, not liable for withholding tax.
- If the payment is a mixture of royalty and know-how, the excess may be allowed against the royalty part in the annual assessment, provided the payments for royalty and know-how are closely related, for instance, associated with the one agreement.

KNOW - HOW PAYMENTS AND ROYALTIES FROM NEW ZEALAND (Continued)

**Variation In The Deduction Or Payment Of Withholding Tax**

Public Information Bulletin 17 notified that the Commissioner would consider requests that payments of non-resident withholding income be made without deduction of of withholding tax when -

- tax has already been paid in annual assessments on the non-resident in past years,

AND

- the tax in an annual assessment exceeds the withholding tax which would normally be deducted.

This variation will apply only to payments of industrial royalties, know-how and interest. Payments of dividends and cultural royalties are not included in an annual assessment and the deductions of withholding tax are final.

The Commissioner will also consider variations to provide for centralised accounting in one sum when numerous small payments of royalties, particularly cultural royalties, are made during the year.

**Summary**

The New Zealand tax laws affecting royalty and know-how payments are summarised in the following charts -

**TERMS DEFINED**

TERM	DEFINITION	LEGISLATION
Royalty payments	All royalties or other like payments dependent upon production from or the use of any real or personal property, whether or not they are instalments of the purchase price of any property.	Section 88 (e)
Cultural royalties	A payment as defined in section 88 (e) which is for the use, production or reproduction of, or for the privilege of using, producing or reproducing a literary, dramatic, musical or artistic work in which copy-right subsists	Section 203Z, inserted by section 17, 1964 Amendment Act
Know-how payments	All payments for the supply, in connection with the carrying on of a business, of scientific, technical, industrial or commercial knowledge, information or assistance, not being payments which are wholly reimbursement of deductible expenditure of the payee	Section 88 (ee) inserted by section 11, 1964 Amendment Act

**APPORTIONMENT**

PAYMENT	COMMENTS	LEGISLATION
Payment for know-how and any other purpose	The Commissioner may apportion any payment between the know-how and the other purpose.	Section 88A, inserted by section 12, 1964 Amendment Act.

KNOW -HOW PAYMENTS AND ROYALTIES FROM NEW ZEALAND (Continued)

SOURCE IN NEW ZEALAND

PAYMENT	WHEN PAYMENT HAS A SOURCE IN NEW ZEALAND	LEGISLATION*
Royalty and know-how payments.	<p>Have a source in New Zealand when—</p> <ul style="list-style-type: none"> <li>● Paid by a resident in New Zealand unless paid in respect of a business carried on outside New Zealand</li> <li>● Paid by a person not resident in New Zealand and are deductible in working out his New Zealand income.</li> </ul>	Section 167 (11) inserted by section 15 (2), 1964 Amendment Act.

LIABILITY TO WITHHOLDING TAX

PAYMENT	DETAILS	LEGISLATION*
Royalty and know-how Payments.	<ul style="list-style-type: none"> <li>● Included in non-resident withholding income.</li> <li>● Non-resident withholding tax levied at 15% of gross payment</li> <li>● "Gross" means without deduction of any kind.</li> </ul>	Section 203S, inserted by S. 17, 1964 Amendment Act Section 203T, inserted by S. 17, 1964 Amendment Act. Definition in S. 3, 1964 Amendment Act
Know-how payments	<ul style="list-style-type: none"> <li>● Not liable if payment is wholly reimbursing</li> </ul>	Section 88 (ee)

WITHHOLDING TAX A FINAL TAX IN SOME CASES

PAYMENT	CIRCUMSTANCES	LEGISLATION*
Cultural royalties	The withholding tax is a final tax. The liability of the non-resident is finally and exclusively determined by the 15% withholding tax.	Section 203Z, inserted by S. 17, 1964 Amendment Act.
Dividends	The same provisions apply to dividends	

WITHHOLDING TAX A MINIMUM TAX IN SOME CASES

PAYMENT	CIRCUMSTANCES	LEGISLATION
Know-how payments Royalties other than cultural royalties Interest	<p>The withholding tax will be a final tax when —</p> <ul style="list-style-type: none"> <li>● the gross amount of interest and industrial royalties plus other taxable income of the non-resident company does not exceed £500.</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>● in the case of other companies and individual non-residents, the withholding income would not attract a greater tax liability when included in an end of year assessment.</li> </ul>	Section 203 ZA, inserted by S. 17, 1964 Amendment Act.

\* Sections of the Land and Income Tax Act 1954



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## COMMISSIONER WILL CONTINUE TO HELP SALARY AND WAGE - EARNERS

The Commissioner is continuing his efforts to help salary and wage - earners understand the tax system and get refunds of tax over-paid. He is doing it in these ways -

### **Simple Tax Forms:**

It may not always have been easy for salary and wage - earners to fill in their tax return. However this year it will be much easier.

*You use form IR 5W if -*

- your income is from salary, wages or superannuation (not Universal) and no other income other than interest under £30.

AND

- all your income and special exemptions are shown on your tax code certificates.

Students, pensioners and working wives will find this form most suitable.

*You use form IR 5 if -*

- your income is from salary, wages, or superannuation (not Universal) and no other income other than interest under £30

AND

- you wish to claim donations/school fees, life insurance premiums, partial exemptions, or exemptions not claimed in your tax code.

So that you can work out what your refund may be or what further tax you may have to pay there is a panel for self calculation.

*Remember, if -*

- your income was from salary, wages, superannuation (not Universal) with not more than £30 interest,

AND

- the total was less than £1300

AND

- you used a correct tax code during the income year,

we don't want to know about any small balance to be paid

A pamphlet is available to help you fill in your tax return if you should have any difficulty.

COMMISSIONER WILL CONTINUE TO HELP SALARY AND WAGE - EARNER (Continued)

**Meeting The Worker:**

Some tax offices have reported the success their staff have had in meeting with employees of freezing companies and other large organisations in the district. Here is the plan followed -

- Give talks to the employees to make them aware of their right as taxpayers.
- Distribute tax returns and pamphlets.
- Follow-up with on the job lunchtime assistance at the works or factory by tax officers.

The Commissioner has asked all his District Commissioners to see what can be done in their districts. So, if you are a factory manager, a personnel officer or a company secretary and you think this service would help your employers and employees, why not arrange the get-together with the local tax office. We will welcome your help.

**A Look At The Future**

The 7 June is the due date for sending in your tax return IR 5 or tax return IR 5W

We are planning a public assistance drive during the first two weeks of May when the matter of filing salary and wage earner returns will get wide publicity. Many tax officers will play a part in the campaign. Feature articles and advertisements will appear in the local newspapers, and the smaller town enquiry service which has been so successful will be intensified.

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**BONUS DISTRIBUTION BY HOLDING COMPANY CAN BE  
TAX FREE TO ITS SHAREHOLDERS**

Cases have arisen when -

- A subsidiary company has made a bonus issue of shares - generally under section 144B of the tax Act

AND

- the holding company in turn contemplates making a bonus issue of its shares to its shareholders.

The Commissioner announces that

- if the holding company writes up, in its own books, the value of its investment in the subsidiary,

AND

- provided the write up is within the market value of the investment,

a bonus issue which is wholly free of tax can be made from the write up under section 4 (3) of the tax Act.

In these circumstances it is unnecessary for the holding company to seek the protection of section 144B for its own shareholders as they will be better off, for tax purposes, if they get a tax free distribution under section 4 (3).

## EXPENSES ALLOWABLE TO FARMERS WHO CONVERT TO TANKER COLLECTION

The common expenditure incurred may be claimed as a deduction in the following ways.

### As Repairs And Maintenance

Renewal or repair of cattle stops  
Repairs to access roads or tracks  
Modification of tank stand to take tank supplied by dairy company.

### As Development Expenditure

New cattle stops  
New access roads or tracks  
Improvement to roads or tracks by widening or metalling

### As Loss On Disposal

Plant, equipment, cans sold or discarded as a result of the conversion

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## OVERSEAS TAX NEWS

Here are some items of overseas news which you may find of interest

- **Australia** - Mr E.T. Cain succeeds Mr D.L. Canavan as Federal Commissioner of Inland Revenue.
- **Britain** - Some will recall the recent visit to New Zealand of Mr Chambers, Chairman of I.C.I. Another mentioned in the overseas news is Mr Frank Cockfield, world manager for Boots. Both were prominent Revenue men in their time. Mr Chambers resigned from the Department in 1947 while Mr Cockfield had the distinction of being a Commissioner of Inland Revenue in Britain at 35 years of age
- **Japan** - On November 9, 1964 Mr Sato assumed the office of Prime Minister previously held by Mr Ikeda who resigned because of ill health. Before taking up a career in politics, Mr Ikeda was for some years Commissioner in the Tax Bureau of the Ministry of Finance
- **U.S.A.** - Recently, President Johnson appointed Mr Sheldon Cohen, a certified public accountant as well as a lawyer to Commissioner of the Internal Revenue Service. Mr Cohen, 37 years old, succeeds Mr Bertrand Harding who had been acting Inland Revenue Service Commissioner since last July.

## QUESTIONS AND ANSWERS

### FERTILISER AND LIME INCENTIVE

#### Question

In 1964 I gained the incentive deduction on the cost of fertiliser and lime bought and applied to my farm. Since then, part of the cost of manure has been rebated. Will you re-open my 1964 tax assessment to reduce the cost by the amount of the rebate or, is "cost" for the purposes of the incentive the GROSS cost before taking into account any rebate?

#### Answer

"Cost" is defined as being the cost of fertiliser and lime to the taxpayer at the supplier's store plus the cost of transport and application.

Section 145 of the tax Act, which specifically governs rebates from mutual transactions provides that the rebates are to be included as assessable income in the year that they are paid or credited. There is no authority under that section to re-open the previous year's assessment to disallow any portion of the amount allowed as a deduction.

Therefore, the "cost" of fertiliser and lime for the purpose of working out the additional deduction for increased expenditure on fertiliser and lime is the GROSS cost before taking into account any rebate received in a later year. Your 1964 tax assessment will not be re-opened in these circumstances.

### NON-RESIDENT COMPANIES

#### Question

Will New Zealand companies with 25 per cent or more of the shares held by non-residents of New Zealand be required to pay higher basic rates of ordinary income tax?

#### Answer

No. These companies will continue to pay ordinary income tax at the rates applicable to New Zealand resident companies. However, dividends paid by these New Zealand companies to overseas residents will attract the new 15 per cent non-resident Withholding tax.

On the other hand non-resident companies, irrespective of the composition of their shareholding, will, in general, be assessed at the new rates of ordinary income tax which range from 3s 6d for the first £1 of income to 11s 0d on incomes exceeding £3,600.

### TAX FREE DISTRIBUTION

#### Question

Can the value of a lessee's interest in a property be valued and written up for the purposes of Section 4(3) of the Act as amended by the 1964 Amendment Act.

#### Answer

The value of a leasehold interest in a property is essentially in the nature of goodwill. Because the section specifically excludes goodwill the writing up of a lessee's interest is not available for a tax free distribution.

QUESTIONS AND ANSWERS (Continued)

**WORKERS' COMPENSATION AND TAX DEDUCTIONS**

**Question**

One of my employees was injured at work and is now receiving compensation. During the eight weeks he is away I will pay his full wage and retain the amount due under the Workers' Compensation Act. How do I work out the tax to deduct each payday

**Answer**

Compensation is exempt from Tax. To calculate the tax take the compensation from the amount of his gross wage and work the tax out on the balance.

**COST OF FERTILISER AND LIME FOR CALCULATION OF ADDITIONAL DEDUCTION.**

**Question**

When part of the cost of fertiliser and lime is rebated in the succeeding year is the "cost" for the purposes of Section 119C of the Act the GROSS cost before taking into account any rebate.

**Answer**

The section defines 'cost' as being the cost to the taxpayer at the supplier's premises plus the cost of transport and application. As a rebate is normally a remission of part of the cost price of the goods it would appear that the assessment for the year the purchase was made, should be reopened to disallow an amount equal to the rebate.

However section 145 of the Act which specifically governs mutual transactions, provides that such rebates are to be included as assessable income in the year that they are paid or credited. There is no authority to reopen the previous year to disallow any portion of the amount allowed as a deduction.

Therefore the "cost" of fertiliser and lime for the purposes of calculating the additional deduction for increased fertiliser and lime, is the GROSS cost before taking into account any rebates given in a later year

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Following the passing of the Land and Income Tax (Amendment) Act 1964 and the issue of Public Information Bulletin No. 16 many questions have been asked.

Some of the questions and their answers are set out here.

**1. SECTION 4 - INCREASED TAX OF 5% ON INCOME OF NON - RESIDENT COMPANY**

**Question**

(a) As this section is deemed to have come into force on the 1 April 1964, could you confirm whether the additional tax will apply to the income derived in the year 31 March 1964 by non-resident companies.

(b) Because of the different year of assessment for PAYE companies and subsisting companies, could the section mean that the increased 5% will apply to the income derived in the year ended 31 March 1964 by non-resident subsisting companies, but will apply to the income of the year 31 March 1965 for non-resident PAYE companies.

(c) If this increased tax does apply to income for the year ended 31 March 1964, who will be assessed with it - the New Zealand paying company as agent, or the non-resident direct in the case of say royalties.

QUESTIONS AND ANSWERS (Continued)

**Answer**

Section 4 made a change in the basic rates of tax for non-resident companies from the 1 April 1964. The annual act fixed the altered basic rates for companies for the year of assessment, 1 April 1964 to 31 March 1965. So a non-resident subsisting company will be charged the increased 5% tax for the year ended 31 March 1964 but for a non-resident PAYE company the first year the increased tax will be charged is that ended 31 March 1965

Concerning agency —; there has been no change in the general provisions of the principal Act regarding agency. The 5% is simply an addition to the rate for non-resident companies. The agency provisions in Part VII of the Principal Act apply to the altered rate in the same way as they applied before the rate was changed. In the case of part (c) of the question the New Zealand resident would only be assessed as the agent if the Commissioner had given him prior notice to that effect

**2. SECTION 17 – SECTION 203 ZA.**

**Question**

This section provides that the 15% tax on royalties and interest will be final unless further income tax would be payable by including this income in an end of year assessment.

Could you please confirm that an assessment will be made in a case where there is no income other than the non-resident withholding income. For example, gross interest £10,000 paid to non-resident against which no expenses are claimed :

Assessment = Tax at 55% on £10,000	= £5,500
Less – Credit for 15%	= <u>1,500</u>
Additional tax	<u><u>£4,000</u></u>

In these cases will the non-resident company or the New Zealand paying company as agent be responsible for filing returns of income and paying this additional tax. It appears that the New Zealand company would be responsible as agent, and if so, this raises practical difficulties of providing for this tax from remittances.

In these circumstances, if the non-resident is a PAYE company, we presume that there would be no liability for provisional tax.

**Answer**

The example is correct in principal. When the annual income is non-resident withholding income and the annual tax is greater than the withholding tax, an assessment will be made. However this will not apply when the non-resident withholding income consists wholly of dividends and/or "cultural royalties"

When a New Zealand resident is an agent under Part VII of the Land and Income Tax Act 1954 the assessment will be made on him. If there is no New Zealand resident agent, the principal will be assessed direct. This amended legislation should not add to the nature of any problems which an agent may encounter in providing for the tax.

*Provisional Tax* – Section 49 of the Amendment Act makes it clear that provisional tax is not payable in respect of non-resident withholding income

## ROYALTIES, DIVIDENDS AND INTEREST PAID TO BRITISH COMPANIES

Under the United Kingdom / New Zealand double tax Agreement, royalties paid from New Zealand to United Kingdom residents for the use of patents and so on were exempt from New Zealand tax. This exemption from New Zealand tax, including non-resident withholding tax applies to royalties for the year ending 31 March, 1965 for PAYE companies and for the year ending 31 March 1964 for subsisting companies.

Until the 1 April 1965, there is no liability to deduct non-resident withholding tax from royalties paid to British residents. However, an assessment will be made on British companies, - which are treated as subsisting companies for New Zealand tax purposes, - deriving royalties from New Zealand for the year ended 31 March 1965. In these assessments the royalties will be treated in the same way as if they were withholding income, i.e. tax will not be less than 15% of the gross payment but may be more.

The above paragraphs very briefly state the effect of section 18 of the 1964 Amendment Act. There are, however, some aspects and incident matters which warrant more explanation. They are discussed in this article.

### Points To Remember

To help in this matter here are four points to remember -

- Firstly** Section 18 states how New Zealand *dividends, interest, and royalties* derived by a United Kingdom company incorporated before 26 July 1957, from 26 June 1964 to 1 April 1965 are to be taxed
- Secondly** The royalties concerned are those to which Article VII of the New Zealand / United Kingdom double tax Agreement applies
- Thirdly** The three types of income mentioned will not be classed as non-resident withholding income until 1 April 1965.
- Finally** However, under section 18 the New Zealand tax liability is the same as if the income had been non-resident withholding income.

### Summary

The following charts summarise the *whole* position.

### NOTE:

In the charts "subsisting companies" means companies resident in the United Kingdom and incorporated before 26 July 1957. Companies resident in the United Kingdom and incorporated after 25 July 1957 are referred to as "PAYE companies"

**DIVIDENDS PAID TO UNITED KINGDOM COMPANIES**

Type of Company	Period When Derived	How Taxed in New Zealand
PAYE and Subsisting Companies	1 April 1964 - 25 June 1964	Non - Assessable
PAYE.	26 June 1964 - 31 March 1965	EXEMPT -But taken into account for rate purposes in respect of other income.
Subsisting	26 June 1964 - 31 March 1965	Assessed in year of assessment which begins 1 APRIL 1965, Section 18 ensures that tax will be same as if dividends had been Non - Resident Withholding Income.
PAYE and Subsisting Companies	From 1 April 1965	Liable to 15% Non - Resident Withholding Tax.

**INTEREST PAID TO UNITED KINGDOM COMPANIES**

Type of Company	Period When Derived	How Taxed in New Zealand
PAYE and Subsisting Companies	1 April 1964 - 25 June 1964	Assessed after end of income year
Subsisting Companies	26 June - 31 March 1965	As provided by Section 18.
PAYE Companies	26 June 1964 - 31 March 1965	Non - Resident Withholding Tax deducted at source at time of payment. NOTE: If deductions have not been made for this period an assessment will be made after the 31 March 1965.
All Non - Residents	From 1 April 1965	Liable to 15% Non - Resident Withholding Tax

**ROYALTIES PAID TO UNITED KINGDOM COMPANIES**

Kind of Royalty	Paid To	Period When Derived	How Taxed in New Zealand
All Kinds	Subsisting Companies	1 April 1964-25 June 1965	As ordinary Assessable income -assessed at end of the 1965 income year.
Kinds Referred to in Article VII U.K. Double Tax Agreement	Subsisting Companies	26 June 1964-31 March 1965	As provided under Section 18, after the end of the 1965 year.
OTHER than referred to in Article VII	Subsisting Companies	26 June 1964-31 March 1965	Non - Resident Withholding Tax deducted at source at time of payment. NOTE: If deductions have not been made for this period an assessment will be made after the 31 March 1965.
Kinds Referred to in Article VII U.K. Double Tax Agreement	PAYE Companies	1 April 1964-31 March 1965	EXEMPT
OTHER than Referred to in Article VII	PAYE Companies	1 April 1964-25 July 1964	Ordinary Assessable income - Assessed at the end of 1965 income year
OTHER than Referred to in Article VII	PAYE Companies	26 June 1964- 31 March 1965	Non - Resident Withholding Tax deducted at source at time of payment. NOTE: If deductions have not been made for this period an assessment will be made after the 31 March 1965.
All Kinds	PAYE and Subsisting Companies	From 1 April 1965	Liable to 15% Non - Resident Withholding Tax



## THE INCOME TAX (EXPORT INCENTIVE) ORDER 1965

The 1963 taxation incentive scheme for increased exports has been extended to include the following -

- Bees
- Products and by-products of bees, excluding packed extracted honey or crude unrefined bees wax
- Meat of game
- Products and by-products of game
- Poultry
- Products and by-products of poultry excluding eggs and egg pulp
- Wool grease and products derived therefrom

Under the scheme the net income arising from the increase of export sales of qualifying goods over the average export sales for the previous three income years is free from income tax. Previously, as animal products and by-products the above were excluded from the scheme. Under the Income Tax (Export Incentive) Order 1965 they will now qualify for the incentive deduction from the 1 April 1963.

### Definitions

The terms "Game", "poultry" and "Wool grease and products derived therefrom" embrace -

- |  |   |  |
|--|---|--|
| Game                                       | - | deer, and when living in a wild state, hares, pigs and goats. Deer tails, antlers and sinews would be included as a product of the animal. |
| Poultry                                    | - | domestic fowls, ducks, geese and turkeys and includes the carcass of any such birds  |
| Wool grease and products derived therefrom | - | all fatty substances derived from wool grease, including lanolin.  |

## THE 1964 SAVINGS SUPERANNUATION SCHEME FOR FARM EMPLOYEES

Government has approved a Superannuation Scheme for farm employees. The Scheme will be administered by the *National Provident Fund*.

Government will meet all administrative costs of the Scheme and will guarantee a *Minimum Return* on contributions of at least 4% a year, when contributing member qualifies for a benefit.

### Who May Join

Any worker engaged in agricultural or pastoral pursuits, including sharemilkers, may join the Scheme, *provided* the employer is willing to enter him and subsidise his contributions £1 for £1.

### Change Of Employment

If a member of the scheme changes his *farm* employer he may,

- Stop contributing, without losing benefits in respect of past contributions

OR

- Continue to contribute *provided* his new employer is contributing, or is prepared to contribute, to the Scheme.

### What Are The Benefits

On reaching 60 years of age a member will have to his credit,

- The total contributed by him and his employer

PLUS

- Interest and Bonus on the member's contributions of at least 4% a year compounded.

On retirement he may use the full amount of his credit to

- Purchase an annuity for life
- Purchase a house, when he has to vacate one owned by his employer, or when the existing house is unsuitable.

OR

- Use half his credit to purchase an annuity for life for his wife.

OR

- Take a 1/4 of the total amount in cash and purchase an annuity for life with the balance.

THE 1964 SAVINGS SUPERANNUATION SCHEME FOR FARM EMPLOYEES (Continued)

Should a contributing member die before qualifying for a benefit his widow will have rights similar to those which the member would have had at the time of his retirement. If the wife predeceases the member other dependents may qualify.

**Tax Benefits**

Subject to the maximum allowance for tax purposes.

- The employee may claim the amount he contributes, as a Special Exemption.
- The employer may claim his contributions as an expense against his farming income.

Any representative of the *National Provident Fund* or provisional secretary of the *Federated Farmers* will be pleased to give you more information about this scheme.

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HOW TO RECONCILE TAX DEDUCTIONS WHEN  
TAX CODE CERTIFICATE LOST.

Now that it is time to prepare reconciliation statements, IR 68, for the year ended 31 March 1965, the question of how to reconcile when a Tax Code Certificate is lost has again been raised.

When this has happened, the employer should attach to the IR 68, a letter showing:—

- Full name of employee concerned
- Period of his employment.
- Address at that time.
- Gross wages paid.
- PAYE tax deductions.
- Tax Code established

AND

- A statement that the certificate was lost or destroyed.

Should an employee lose his copy, he may be given details of the amounts shown on the certificate previously issued to him. However he should not be given another certificate.