

TAX POOLING AND ICA CREDITS

This memo is intended to provide guidance for accountants as to the timing of when tax pool transactions create a debit or credit to the ICA account. Further information can be found in sections OP 8, 9, 23, 32, 33 and 42 of the Income Tax Act 2007 for consolidated groups and in OB 5, 6, 26, 34, 35 and 41 for individual companies and in the IRD's commentary on tax pooling in the attached link examples 6 and 7. <http://www.ird.govt.nz/technical-tax/legislation/2011/2011-63/2011-63-provisional-tax-pooling/leg-2011-63-prov-tax-pooling.html> and; also in the following link: (<http://www.ird.govt.nz/technical-tax/legislation/2010/2010-109/2010-109-rewrite/timing/>)

How and when tax pool transactions are accounted for

Tax Pool Transaction	Impact on ICA Balance	Effective date of Credit/Debit in the ICA account	Timing of updating the ICA account	Reference
Deposit	Credit	Day of deposit to Tax Pool	Day of deposit to Tax Pool	OP 8, OB 5
Purchase used for tax liability (transfers from a person who was not part of the group at the effective date credits are required are deemed to be purchases)	Credit	Effective date credits are applied to Income Tax account	On date of transfer of credits out of the tax pool	OP 9 (3)(a), OB 6 (3)(a)
Purchase (where funds purchased are not used and subsequently on-sold)	Credit	Date the credits are subsequently on-sold to third party	On date of sale	OP 9 (3)(c), OB 6 (3)(c)
Purchase (where funds purchased are not used and subsequently refunded from Pool)	Credit	Date the credits are subsequently refunded from the tax pool	On date of refund	OP 9(3)(b), OB 6(3)(b)
Transfer of own deposited funds from tax pool balance to IRD account	No impact	No impact as credits arose on deposit to the tax pool	N/A	OP 9(1), OB 6(1)
Sale (transfers to persons who are not the person who deposited the funds are deemed to be sales.) This applies	Debit	<ol style="list-style-type: none"> 1. Previous 31 March ICA closing balance to the extent this is greater than zero. 2. The day the sale is made to the extent of the credit balance in the ICA account on 	On date of sale	OP 33(4), OB 35(4)

whether you are selling deposited funds or purchased funds.		the date of sale for any remaining debit not covered under 1. above. 3. The previous 31 March ICA closing balance if there is still a remainder to debit to the ICA account. Please note this will put your ICA account into debit and retrospectively give rise to penalties.		
Refund	Debit	<ol style="list-style-type: none"> 1. Previous 31 March ICA closing balance to the extent this is greater than zero. 2. The day the refund is made to the extent of the credit balance in the ICA account on the date of refund for any remaining debit not covered under 1. above. 3. The previous 31 March ICA closing balance if there is still a remainder to debit to the ICA account. Please note this will put your ICA account into debit and retrospectively give rise to penalties. 	On date of refund	OP 32 (4), OB 34(4)

Please note that where a group company has deposited or purchased funds through a tax pool and then applies those funds to a different company this will result in a debit to the group company ICA account as set out in the “Sale” section above. If the credit being transferred is a deposit and the recipient was a member of the group at the time of deposit (at least 66% common shareholding), the credit arises for the recipient as if they made the deposit themselves. In all other cases, whether a member of the group or not, the credit arises as if the recipient purchased the funds.

What is the impact of a break in shareholder continuity on the ICA credits held in a tax pool?

Where there is a break in shareholder continuity the general rule is that you can retain the backdated effective date of the tax credits held, and lose the ICA credits that attach to those credits, or the tax credits can be transferred out of the tax pool at an effective date that is after the break in continuity in which case the ICA credits will be retained post continuity breach.

Please don’t hesitate to contact us with any questions you may have. Please note the information contained in this memo is not intended to substitute for tax agents making their own enquiries regarding their client’s ICA position and is not intended to constitute tax advice.