



## Employment and investment income Bill reported back

### Snapshot

The Taxation (Annual Rates for 2017-18, Employment and Investment Income, and Remedial Matters) Bill has been reported back from Select Committee. The reported-back Bill is available [here](#). The Officials' Report on submissions is available [here](#).

The Bill implements new rules for reporting of PAYE and investment income information to Inland Revenue and for determining the taxation of employee share scheme benefits. (You can read our taxmail on the Bill as introduced [here](#)).

The Select Committee's changes, as expected, are incremental. They improve and clarify the operation of the various rules. This includes additional time for reporting of certain employee benefits. The Bill now awaits enactment. This will need to be by 31 March 2018 at the latest.

**The Bill's proposals give effect to two major Business Transformation initiatives – to streamline the reporting to Inland Revenue of PAYE and investment income information**

**These have 2019 and 2020 effective dates, respectively**

**Business should be preparing now to ensure their systems and processes can comply with the new information requirements**

### Contact us

**John Cantin**  
Partner, Tax  
T: +64 4 816 4518  
E: [jfcantin@kpmg.co.nz](mailto:jfcantin@kpmg.co.nz)

**Darshana Elwela**  
Partner, Tax  
T: +64 9 367 5940  
E: [delwela@kpmg.co.nz](mailto:delwela@kpmg.co.nz)

## What's changed in the reported-back Bill?

The key Select Committee changes are outlined below:

### Employment income information reporting and payroll subsidy

- Reporting of “out-of-cycle” (i.e. ad hoc) employee payments can be part of the next regular payday reporting, except if that would result in deferral beyond the PAYE due date.
- Certain payments to self-employed taxpayers and employee share scheme benefits (from schemes with no fixed vesting date) can be reported twice monthly, rather than on a payday basis.
- Employers eligible to file manually will be able to report twice monthly, with the 15th and last day of each month treated as paydays. (The Bill originally required employers below the electronic filing threshold to file within 7 working days of a payday).
- An extra 20 days will be provided for the reporting of “shadow payrolls” by non-resident employers (as well as the option of twice monthly reporting).
- Employee payments with no tax withheld (e.g. due to a special tax code or zero rate) will need to be reported.
- The small employers’ payroll subsidy (to listed PAYE intermediaries) will continue until 2020.
- Only employers who use electronic payroll systems, or who already file their PAYE electronically, will be able to adopt the new reporting requirements from 1 April 2018.

### Investment income information reporting and RWT exempt status

- Companies will no longer have to provide copies of dividend statements to Inland Revenue (as this information will be included in the new investment income reporting requirements).
- The new investment income reporting requirements will not apply to foreign companies.
- Where the investor is a nominee, Approved Issuer Levy information details to be reported will be in relation to the nominee (unless the payer has access to information about the ultimate investor).
- The proposal for PIEs to provide 6 monthly reporting of investors’ nominated tax rates is removed.
- Non-resident investors in PIEs that become NZ resident will have 6 weeks from notifying the PIE of their change in residence to obtain an IRD number.
- The proposal to report information about investors with RWT exempt status is removed.
- The proposed electronic register of RWT exempt persons will contain only their IRD number (to enable verification by a payer) and the start and end dates for their RWT exempt status.
- Beneficiaries of trusts, partners of partnerships and shareholders of companies will not be treated as “joint account holders” for reporting purposes.
- Inland Revenue will have flexibility around whether to impose non-electronic filing penalties during the early stages of the investment income reporting regime.

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**John Cantin**  
Partner, Tax  
T: +64 4 816 4518  
E: jfcantin@kpmg.co.nz

**Darshana Elwela**  
Partner, Tax  
T: +64 9 367 5940  
E: delwela@kpmg.co.nz

## Employee share schemes

The scope of the new rules will be limited to shares issued in connection with employees' (or contractors') employment or service to prevent capture of share transfers that are gifts or similar.

## Key takeaways

The reported-back Bill does not fundamentally change the proposals as introduced.

- Submissions (including by KPMG) to extend the proposed two working day turnaround period for payday reporting of employee income and PAYE information have not been accepted. However, some additional time has been provided for certain employee payments that are outside the normal payday cycle. That is helpful. However, business will need to ensure they have robust processes and systems, and effective communication between their different business units (such as, payroll and finance/tax), as well as with third parties holding relevant information (e.g. in relation to employee share grants), to ensure the right information can be sourced and provided in time.
- A key KPMG submission on the investment income reporting proposals was the need to provide explicit recognition for the role of custodians in the reporting framework (as these intermediaries will often hold information about the ultimate investors, not the payers). The Officials' Report notes that while Officials agree with our submission, this requires further public consultation. We hope this is addressed comprehensively and as a matter of priority.
- Disappointingly, the concerns raised around the operation of the new employee share scheme taxing rules, including the potential for taxation of capital gains, have not been addressed. The Select Committee changes, in the main, are clarifications. This includes clarifying that there must be nexus with a person's employment or service for the new rules to apply, which is welcome. It is worth noting that these new rules may capture some share grants that have already been returned under the current timing and quantification rules.
- The Bill contains an exclusion from the NZ dividend rules for shares arising on de-mergers of certain ASX-listed Australian companies. The exclusion applies if the demerger would not give rise to adverse Australian tax outcomes. While we support this change, we recommended that the exclusion should apply "to the extent" there is no Australian tax impost. (This is because some demergers will have both an Australian taxable and non-taxable component. There should be no adverse NZ tax consequences in relation to the latter). It is not clear that this recommendation has been accepted, based on our reading of the reported-back Bill.
- Finally, the Bill contains a discretion to allow Inland Revenue to issue IRD numbers to non-residents without a NZ bank account. This is welcome given the practical problems complying with the current requirements. In response to submissions, the Officials' Report notes that examples of when the discretion will be exercised will be provided in a future Tax Information Bulletin.

## For further information

### John Cantin

Partner, Tax  
Wellington  
Phone: +64 4 816 4518  
Email: jfcantin@kpmg.co.nz

### Darshana Elwela

Partner, Tax  
Auckland  
Phone: +64 9 367 5940  
Email: delwela@kpmg.co.nz

[kpmg.com/nz](http://kpmg.com/nz)  
[twitter.com/KPMGNZ](https://twitter.com/KPMGNZ)

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